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New Traveller families and post-separation parenting arrangements

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NEW TRAVELLER FAMILIES AND POST- SEPARATION PARENTING ARRANGEMENTS

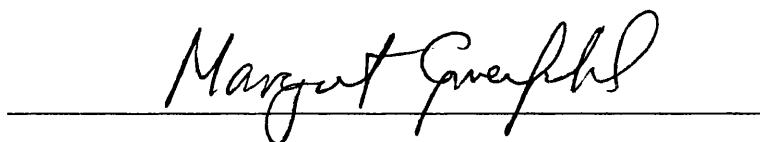
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MARGARET GREENFIELDS

for the degree of Doctor of Philosophy
of the University of Bath
2002

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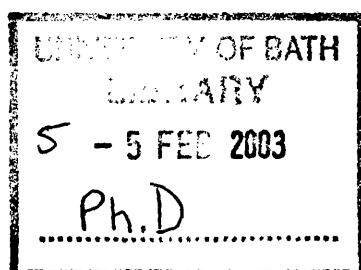
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ABSTRACT

The thesis provides a detailed analysis of New Traveller families post separation parenting arrangements. Two groups of Travellers have been studied: those who engaged with legal proceedings over their children (predominantly using s8 of the Children Act) and informants who came to their own arrangements over contact and residence matters. Although it had originally been intended to consider *only* those Travellers who had undertaken legal proceedings in respect of family arrangements, over the course of the fieldwork it became clear that Travellers tend to see the use of the law over family disputes as problematic, and a breach of the social contract which is held to exist between members of the nomadic community. As such, wherever possible, informal dispute resolution methods are used to ensure ongoing child contact arrangements, and a number of well-defined 'solutions' to problematic parenting relationships have been devised. Accordingly, when formal legal advice or proceedings are brought against another member of the community, it is necessary to justify such actions by adhering to a set of processes which minimise the loss of 'social capital' inherent in taking such a step.

Legal proceedings generally involve disputes over whether Travelling is in the 'best interests' of a child, and the opposing parties are often 'settled' non-Traveller parents or other housed relatives. Informants with experience of legal proceedings fell into two categories, 'initiators' and 'respondents' although a number of similar themes were found in both sets of narratives. Most commonly, Travellers reported cultural misunderstandings with legal professionals. Solicitors and Court Welfare Officers were often reported as being ill-informed about nomadic lifestyles, displaying evidence of a preference for settled accommodation and tending to perceive of Travelling as 'unstable' for children. Although informants tended to receive their desired outcome (in terms of orders made), findings indicate that a higher percentage of Travellers than litigants within the settled population are subject to orders for 'supervised' contact or receive a prohibited steps order barring the removal of a child from the jurisdiction, hence limiting a family's geographical mobility. As such there are indications that nomadic persons may be treated less favourably than members of the settled population in family proceedings, supporting Travellers' anecdotal beliefs and increasing their tendency to avoid legal proceedings.

Methodological processes used to gain access to this essentially 'closed' society included overt participant observation and tape-recorded semi-structured interviews with 23 informants. Interviews were carried out in three geographical locations and at a variety of sites enabling a consideration of whether family practices varied according to informants' location, access to supportive lawyers or Traveller support groups, stability of accommodation and related employment practices. A limited number of interviews were also carried out with solicitors and Court Welfare Officers to ascertain their views of particularly problematic aspects of standardised family law cases where one or other party is a nomadic Traveller (see Appendix 4).

INTRODUCTION

For many people, the name 'New Travellers' conjures up a vision of problematic drop-outs, individuals steeped in a culture of anarchic drug-sodden hedonism who are incapable of existing within the boundaries of the conventional world. The popular image with which to illustrate tabloid newspaper 'shock-horror' tales of the excesses of this group, consists of longhaired or dreadlocked young men, cropped haired women, and for both genders, visible tattoos, piercings, 'dog on a string', can of Special Brew, and the much beloved 'battered' (and the implication goes, probably illegal) bus or truck. If pictorial representations are not enough to underline the differences in appearance and behaviour between New Travellers ('them') and 'us' (the settled, respectable majority) then one has only to consider the many terms of contempt levelled against this group. Earle, et. al. (1994) commence their anecdotal history of New Travellers with a selection of expressions which have been used to describe members of this community. Perjorative terms include the following: "Brew Crew", "Dole Scrounger", "Medieval Brigand" and "Crusty". Some newspaper reports have gone further, referring to "soap-dodgers" and "sponging scum" (Kenrick & Clark, 1999), and of course, Margaret Thatcher once famously pronounced that New Travellers "accept all of the advantages of a free society, but refuse to rise to any of its responsibilities" (see Martin, 2002).

Although the images conjured up by this intemperate language are reminiscent of the attitudes expressed towards Romani and traditional Gypsies over so many centuries, (Liegeois, 1986) a subtle difference exists in terms of the qualitative nature of the hostility. Gypsies are typically portrayed in one of two ways (the fiery, sensual 'Carmen') or, the thieving vagabond ('my mother said I never should play with the Gypsies in the wood' to quote the old nursery rhyme). New Travellers however, are portrayed as 'drop-outs' from society, not born to the Travelling life, but either rejecting their 'lower middle class values' and essentially *playing* at nomadism (Hetherington, 2000) - a view which has a significant number of adherents among the Gypsy-Traveller community, and is also an object of considerable contention in some academic circles - or alternatively, as a modern plague of locusts descending on rural idylls to destroy and plunder (a concept considered by both Davis and Sibley, each writing in 1997).

While these paradigms both suppose a conscious, and selfish, choice of behaviour and lifestyle, a noticeable aspect of the discourse is the concentration on the abrogation from normative, housed, lifestyles (McVeigh, 1997). Gypsies and traditional Travellers may be regarded as undesirable, but, so the popular rhetoric runs, they are at least following the dictates of membership of a particular ethnic group, and thus perpetuating their cultural practices. New Travellers however, are perceived of as having left their homes, and opted to become nomadic, taking on a romanticised 'freedom of the road' while appropriating another group's identity and wantonly 'taking' from society. Thus, in the case against New Travellers, a conscious negation of the virtues of modern life is to be added to the age-old claims of squalor, vagabondage and dishonesty made against 'ethnic' Gypsies (see Liegeois, 1986; Mayall, 1995).

Although Gypsies and traditional Travellers have undoubtedly experienced centuries of discrimination, and harassment (Liegeois, 1986; McVeigh, 1997) somewhat ironically, the latest wave of legislation aimed at Travellers (The Criminal Justice and Public Order Act, 1994, (CJPOA) which built upon the Public Order Act of 1986) while limiting the availability of sites and options for nomadic people to legally halt, has (in some cases) led to a greater acceptance of Romanichal Gypsies among members of mainstream society (see debates in Hansard, February and July 1993, and July 1994, prior to the passing of the CJPOA, 1994).

While this thesis does not discuss the origins of indigenous nomadic populations such as Irish and Scots Travellers (Stewart & Kilfeather, 1999; Kenrick & Clark, 1999) it is clear that in recent times, significant debate has been aroused by the ethnic origins and historical antecedents of varying groups of Travellers, fuelled both by diversity initiatives (see for example, Stewart & Kilfeather, 1999; Cemlyn, 1998; 2000a and b; Pemberton, 2001) and perhaps equally, romanticised notions of 'true Gypsies' (Davies, 1997; Altheer, 2002). Accordingly, we have reached a situation where in popular rhetoric, 'real Gypsies' of Romany origins are increasingly distinguished both in behaviour and lifestyle from '*other Travellers*', among which, New Travellers are prominently represented (see further, Jack Straw's notorious radio interview of 22nd

July 1999, and indeed a number of ripostes to his statements, Clark and Dearing, 1999; Turner, 1999; Morris, 2000).

While Straw's comments on 'so-called Travellers... who think that it is perfectly OK for them to cause mayhem in an area' (interview on Radio West Midlands, 22/7/99), attracted considerable comment in the media, (The Guardian; Times; Independent, 23rd July, 1999; Radio 4, 23rd July, 1999; Turner, 1999) in many ways the furore muddied the waters still further in terms of recognition of New Travellers as members of the Travelling community, reactivating much of the hostile media comment of the early 1990s and leading to an almost undisputed public agreement with such descriptions of New Travellers as "they call themselves...itinerants, new age travellers. We call them parasites, the scum of the earth who live off the backs of others. They contribute nothing but trouble...they set up filthy, disease-ridden camps on roadsides and in parks and offend every decent citizen" The Birmingham Evening Mail, 29/06/97; or acceptance of allegations that "residents were driven out of their homes by all night parties, marauding dogs, human waste deposited in gardens and school children threatened by drug-crazed thugs." 'Letters' Telegraph, 23rd August, 1999.

During the summer of 1999, while the hotly debated issue on who is a 'Romany Gypsy' and who a 'so-called Traveller' raged, (allowing satirists such as Steve Bell the opportunity to consider the concept of 'Home Office Approved Gypsies', cartoon in The Guardian, July 1999) ethnicity, and authenticity of historical antecedents as a Traveller once more rose to prominence. Thus, while some commentators who responded to negative representations of 'ethnic' Travellers felt it necessary to stress that "most Travellers are indistinguishable in appearance from the indigenous settled population" (Turner, 1999 p1) even authors with considerable experience of Travellers and Gypsies focussed on the importance of traditional 'culture' and 'heredity' albeit while urging that descriptions of clothing and skin colour are disregarded as crude attempts to identify the "classic Romany" (Turner, 1999, p2; Altheer, 2002). Noticeably prominent in these ripostes to Straw's comments however, were the stress on "English Gypsies ethnic relationship to Roma" (Altheer, 2002) even while emphasising the scarcity of stereotypical 'Gypsies' when compared with those individuals who are the products of "mixed marriages over generations"

(Turner, 1999, p2) and hence do not conform to popular conceptualisations of members of this ethnic minority. Similarly, the theme of the impossibility of “simply anyone becoming [a Gypsy]” (Altheer, 2002) features strongly in these discourses.

By concentrating purely on ethnic heritage however, differences between Travellers become over-emphasised and similarities are ignored. Hence “[by the use of these] subtle ‘ethnic’ differences, in the eyes of the law, one group is rendered as ‘pure’ and the others as ‘half-castes’” (Kenrick and Clarke, 1999, pp90-91). Use of such racialised discourse thus permits the negation of internalised community identities and similarities (Morris, 2000), and indeed debate on the basic civil liberty of a ‘right to travel’, while also leading destructively to an inter-Traveller scramble for a “higher ethnic rung on the ladder” (Clark & Dearling, 1999).

It is noteworthy that in recent years, in academic and legal fields alone, Romani and Traveller studies have increasingly gained in prominence and status as a respectable research area. While such an interest is of course to be applauded, this ‘growth area’ is arguably fuelled by more than the identification of relatively un-researched minority groups experiencing significant indices of discrimination and social exclusion within the UK. Equally important perhaps are the growth of ‘niche ethnicity’ studies, and the benefits to both Traveller communities and individual reputations of determined attempts to prove that ‘non-Romani’ Travellers are members of an ‘ethnic’ minority and thus legitimate objects of study and protection under the law.

Ironically perhaps, given the history of anti-Traveller rhetoric (see above), in this latest twist in the ‘Gypsy problem’ discourse, divisions between groups of Travellers are over-emphasised, with Romani Gypsies being represented as a ‘respectable’ minority group suffering through the actions of the ‘so-called’ Travellers, (Straw, 22nd July, 1999). By definition, where favoured groups exist, then an underclass must also be found. Accordingly, Irish Travellers, (long an object to hate to many media commentators, politicians and members of the public and historically represented as hierarchically lower than ‘Gypsies’) have, in an attempt to ‘pass the buck’ become an increasingly recognised branch of Traveller studies and expertise. Not only have Irish Travellers recently been recognised in law as a minority ethnic community (O’Leary

and Others v Allied Domecq and Others 29/8/2000) but at least three community projects in the UK work exclusively with this minority group and a developing body of 'Irish Traveller' publications now exist (Gmelch, 1977; Helleiner, 2000; McCann, O'Siochain & Ruane, 1994; Stewart & Kilfeather, 1999; Pemberton, 2001). Scots Travellers too, have their advocates and experts who stress the uniqueness of these indigenous nomads and the length of their nomadic history (Rehfishch and Rehfishch, 1975; Kenrick and Clark, 1999; Scottish Executive, 1999). What is noticeable however, is that almost all of these research projects focus on the issue 'authenticity' to the exclusion of nomadism and structural inequalities as defining characteristic of Traveller identity.

Given this focus on ethnicity and 'status' as member of a recognised ethnic minority or cultural group, with some noticeable exceptions (Morris, 2000; Clark & Dearling, 1999) New Travellers are generally excluded from discourses on 'being a Traveller'. In the academic world in particular, a division tends to exist between those who focus on 'genuine' Gypsies, and those who favour research into New Travellers, indicating a widespread failure to recognise that both 'types' of nomad are equally valid, each labouring under the burden of structural constraints on their lifestyle, while adhering to their particular cultural and community values.

While Clark and Dearling (2000) assert the need for an "inclusive approach to all those who wish to lead a Travelling life" (p49) as is referred to below, many commentators have tended to focus more on the 'recent' nature of New Travellers' history, hence creating a space for discourse on this group's perceived lack of cultural and social practices, and thus, sometimes unintentionally, ensuring that these Travellers lack of 'authenticity' attracts more attention than the reality of their daily lives. In itself, therefore, the concentration on the what New Travellers 'are not', has tended to detract from their identification as simply another form of Traveller, as much a part of the international nomadic community as are Irish Travellers, or English Gypsies. Arguably, therefore, the grudging respectability afforded to Gypsies in recent years has in some sense been acquired at a cost to other Travellers, with the emergence of New Travellers diluting the prejudice experienced by older nomadic communities through presenting a new target for hostility, in much the same way as recent immigrant groups (i.e. East Europeans and Afghanis) are presented as more of

a threat to society than are communities with longer links to the UK (such as South Asians and Afro-Caribbeans). In the Traveller context too, the disquiet engendered by New Travellers, may well relate to the common perception of such nomads as 'hippies' (Lord Stanley, Hansard, 11th July, 1992) whose en masse 'taking to the road' can be equated with an implied criticism of 'settled' life and mainstream norms and values (and see further McVeigh, 1997; Dearling, 1998; Earle et. al., 1994).

A further explanation for the hostility expressed towards members of this society, may relate to recent academic and policy research, which identifies homelessness as a precursor to Travelling (Davis, et. al. 1994; Webster, 1999, etc.). While street homelessness may excite pity and calls for Government action (such as additional hostel places) when the homeless youth becomes mobile, and parks up near to an expensive rural retreat, the "sympathy evaporated" (Davis, 1997). If one accepts the argument that homelessness and unemployment are the main routes into Travelling (critiqued by Dearling, 1998 and to some extent by the pilot study for this thesis, 1999), it is then clearly possible (if perhaps somewhat cynical) to link the relatively recent demonisation of New Travellers to historical attempts to limit 'vagabondage' and the 'wandering poor', concerns which have arisen throughout Europe over many centuries, and which have fuelled numerous articles of repressive legislation (see Mayall, 1995; Humphreys, 1999; McVeigh, 1997). It is noteworthy too that particular opprobrium has always been reserved for non Romani Travellers who are perceived of as *electing* to live a nomadic life. As early as 1562, statutes permitted the punishment of "persons found disguised, in the company of vagabond Egyptians [Gypsies]" and in 1597-8 this was extended to include the wonderfully named "counterfayte Egipcians", (see Mayall, 1995) surely, the first 'New Travellers' who had taken to the lifestyle and guise of nomadic Romanies.

While a historical review of the New Traveller movement is outside of the remit of this thesis, a number of authorities consider that 'non-Ethnic' Travellers first took to a nomadic existence in significant numbers in the late 1970s and early 1980s, following an expansion of the 'Festival circuit' from a seasonal 'alternative' economic cycle into a viable community living a full-time nomadic existence (Earle, et. al., 1994; Dearling, 1998; Kenrick & Clark, 1999 Chapter, 6; and McKay, 1998). In general all of these authors, (and many New Travellers) are in agreement that two waves of

‘Travelling’ have occurred amongst persons who were formerly sedentary, the first developing organically from the ‘back to the earth’ philosophies of the late 1960s, ‘hippy’ festival-goers; and the second, in the 1980s, from the independent movement of more radicalised, economic migrants from urban life.

The link between the upsurge in New Travellers in the 1980s and 1990s and the economic downturn in the UK over those decades (Davis, et. al, 1994; Davis, 1997; Webster, 1999; Martin, 2002) has been well rehearsed. However, while it would appear incontrovertible that the limitations placed upon young people by economic stringencies and lack of affordable housing have played a part in the increase in this minority group, all too often the element of ‘choice’ involved in becoming nomadic has either been ignored (Davis et. al., 1994), or expanded to a central theme (Hetherington, 2000) to the exclusion of a meaningful discussion on the ways in which a sense of agency and awareness of alternative communities may merge with structural constraints to create a new form of social and ethical identity.

Lowe & Shaw’s (1993) largely unedited collection of New Traveller narratives in their “Voices of the New Age Nomads”, presents predominantly verbatim accounts of routes into Travelling, as such, any critical analysis within this text is a direct product of reflexive thought by the interviewees. Similarly, Earle et. al. (1994) and McKay’s (1998) texts, while creating an opportunity for Travellers to discuss their lives and practices are quite simply not designed to be ethnographic texts. Overall therefore, a limited body of work and even less of an academic nature (Martin, 1998, 2002; Hetherington, 1996, 2000), has been produced which considers the social and cultural underpinnings of New Traveller communities. Thus, the importance of particular group identities and cultural practices found among New Travellers has tended to be subsumed under the mantle of social policy, or more specialised education (OFSTED, 1996; 1999; Save the Children Fund, 2001) or health (Hennink, Cooper & Diamond, 1993; Hawes, 1997; Van Cleemput, 2000) monographs, which focus on particular ‘problems’ facing all Travellers.

While it is clear that New Travellers (hereafter NTs or, to use their preferred term, ‘Travellers’, a self-ascription which identifies the breadth of the movement and relationship to Traditional Traveller-Gypsies, while avoiding the negative ‘Peace

Convoy' connotations associated with the New Age Travellers of the early 1980s) have been in existence for a long enough period to have developed their own identity, history and cultural practices, a lacuna exists in relationship to our knowledge of this group. Popular reportage has ensured that we are aware of NT's excesses, specialist reports have made us aware of their health and education needs (sometimes in a flawed or anecdotal form such as Hennick, Cooper & Diamond's (1993) assertion that New Travellers have an excessively high rate of sexually transmitted diseases and psychiatric illnesses), but in terms of ethnographic research relating to family practices, and relationships with other Travellers, evidence remains sparse, perpetuating the idea that this group does not consist of a sufficiently distinct minority to warrant in-depth social research.

Where academic research has been undertaken in relation to NTs, this has tended to focus upon the impacts of the CJPOA (1994), and eviction processes, on families with children (Davis et. al. 1994; Webster, 1995; Webster 1999). While, the findings of these studies are of vital importance to a wider understanding of Traveller behaviours and experience of health and education inequalities, information relating to *specific* New Traveller social practices has tended to be touched upon only in passing, merely offering glimpses of a distinct cultural system. Moreover, the resemblances between New Travellers and members of other nomadic groups (and indeed similarities with *some* sections of 'mainstream' society, see further Chapter 1 and Greenfields, 1999) have often tended to be overlooked.

Although new research has recently been undertaken into employment patterns and financial strategies undertaken by NTs, (Webster & Millar, 2001), demonstrating recognition of these Travellers as a distinct social group; other than some authors' references to notions of 'community', (Webster, 1999; Webster & Millar, 2001; Martin, 1997; Hetherington, 2000) little is known of social, familial and parenting behaviours practiced by this community. This lacuna in knowledge (based perhaps on assumptions that NTs statically retain the practices and attitudes of 'settled' people) leaves us with (at best) a partial view of their society, and thus an inability to comprehend where and how this community's household structures and relationships vary from that of 'mainstream' house-dwellers. Thus, in contrast to Gypsies (Oakly,

1983; Sutherland, 1987) New Travellers have tended to slip through the academic net in terms of both socio-cultural and anthropological research.

The findings presented in this thesis will therefore contribute to a greater understanding of the cultural differences which exist between NTs and the 'settled' population, and so will explore the extent to which family arrangements conform (or not), to patterns which mirror either traditional Traveller lifestyles, or parenting arrangements found among the majority, 'settled' community.

The Research

This thesis sets out to expand on the pilot study ("the impact on family relationships of 'going on the road'" see Chapter 3) and explore aspects of New Traveller post-separation parenting arrangements, with particular reference to culturally specific family practices. The research concept was developed as a response to enquiries from Travellers (who contacted me in a professional capacity for advice on family law matters), on their rights and responsibilities with regard to their children. As is discussed at more length in Chapter 3, this project was initially devised with the intention of examining the interactions and conflicts between statutory provisions relating to children's residence and the demands of a nomadic life. Inevitably, over time, the research expanded and altered, eventually crystalising into an ethnographic study of parenting arrangements as practiced by 'separated' Traveller families. The thesis, while considering several aspects of family life in some detail; (e.g. routes in and out of relationships, domestic violence and children leaving home), concentrates to a large extent on Travellers' subjective experiences of family law proceedings. Thus, an examination of Travellers' interaction with formal legal systems is undertaken, and a consideration made of the problematic aspects of expecting a 'one court fits all' system, to fulfil the needs of a minority, highly mobile group who follow specific family practices. However, during fieldwork it was found that a fairly high percentage of Travellers interviewed, (and otherwise encountered during their participant observation stage of the research) actively avoided legal interactions in relation to their family life, and considered that formal court intervention was both highly problematic, and culturally inappropriate behaviour.

As a result of these findings, while the original aim of the research is still of focal importance to this study, it has become but one element of the project. Thus this research now consists of two main aims:

Firstly,

- To explore New Travellers experiences of family law interactions, in order to gain an understanding of their routes into legal action relating to children, and of their perceptions of whether the court system (either overtly or covertly) discriminates against nomadic litigants by virtue of process, and orders made.

To achieve this aim, in-depth qualitative interviewing was undertaken with Travellers who had experience of the formal legal system arising from disputes over the residence of, and contact with, their children. In addition, interviews were carried out with a limited number of 'professionals' (4 Court Welfare Officers and 1 solicitor – see Chapter 3 and Appendix 4). The interview process was undertaken with the following objectives:

- to examine Travellers' perceptions, and patterns of use, of the family law system.
- to identify whether Travellers' cultural identity impacts upon 'use' of family court processes.
- to gain an understanding of Travellers' subjective experiences of legal interactions.
- to enable a consideration of the standardised actions of legal personnel when dealing with cases involving Traveller families, (a community whose personal circumstances and living situations may vary considerably from the those found among the 'settled' population).
- to explore whether a conflict exists between the recommendations made by 'professionals' and the preferred behaviour of NTs engaged in conflict over their children's residence/contact arrangements.

- to identify whether, and if so, how, the family law system results in limitations on nomadic lifestyles through prescribed and formalised court proceedings.

The **secondary aim** of this research (arising from Travellers' identification of family proceedings as non 'Traveller-appropriate' behaviour) is as follows:

- **To gain an understanding of Travellers' preferred post-separation parenting arrangements, methods of informal dispute resolution, and other cultural and community practices which support on-going child contact and family commitments.**

To achieve this aim 23 in-depth semi-structured interviews were carried out with separated parents engaged in on-going contact, or residence arrangements. In addition, an intensive five month period of participant observation was undertaken with Travellers living at a variety of locations (10 sites, both authorised and unauthorised) throughout three regions in England, enabling direct observation of parenting arrangements, conflict resolution, and general cultural practices relating to family life. This stage of the research was carried out with the following objectives in mind:

- to explore 'non-court' informants' attitudes to use of the family court system and consider whether attitudinal differences exist between these informants and Travellers who have engaged with formal legal proceedings over their children.
- to obtain information on patterns of post-separation child contact and residence followed by Traveller informants, and consider whether a relationship exists between preferred arrangements and the exigencies of nomadic life
- to consider the ways in which membership of the Traveller community assists (or hinders) informants in sustaining post-separation parenting arrangements (including informal dispute resolution, intervention over domestic violence, etc.)

While this findings of this research are highly suggestive of broad cultural practices followed by New Travellers (and see further Chapter 3, for post-fieldwork confirmation of this assertion), given the selected methodologies, and small sample size, it cannot claim to produce data which is representative of the narratives or experiences of Travellers other than those interviewed. However, it is of value in allowing a detailed exploration of family life, and legal interactions relating to children, as experienced by some members of this community. In addition, the findings advance the debate on the relationship between adherence to a Traveller identity, and moral and cultural practices found among this group; a set of behaviours which are likely to be recognisable to other NTs

In addition, this research fits closely into the on-going debate on ways of sustaining post-divorce' family relationships (Smart & Neale, 1999; Smart & Stevens, 2000) and recently commissioned work for the Lord Chancellor's Department on contact and residence disputes (University of Leeds, commencing 2002). As such, it is to be hoped that this thesis will open up further debate into the role of 'community' in sustaining parental/child contact, and raise the question of whether our current family law system is necessarily as socially inclusive and culture-blind as is widely supposed.

Chapter Outline

This thesis is divided into three sections; the first part, consisting of essentially 'free-standing' chapters, dealing with background information to the research (see under specific chapter headings). In section two, the empirical findings are presented; and the final part of the thesis, research findings are summarised, and a number of professional practice recommendations are made. Individual chapter contents are as follows:

Section One

Chapter 1: a discussion is presented on contemporary theories of the family, and a consideration undertaken of how these conflicting paradigms may inform our understanding of New Traveller family structures and practices. It is argued that

literature and empirical research relating to 'non-normative' families may prove of more relevance to our understanding of Traveller families' attitudes towards (and use of) the family law system, than an assumption that NTs adhere to the practices of the 'settled' majority community, as a result of their formerly sedentary lifestyles.

Chapter 2: this chapter details the main provisions of the Children Act 1989, the main piece of legislation relating to the disposition of children's residence and contact arrangements after parental separation. In addition, a short discussion is presented on features of this Act which may prove to be particularly problematic for Travellers, should they engage with the court system.

Chapter 3: provides detailed information on the research design, methodologies, analysis and fieldwork undertaken during the period of study. In addition, a consideration of ethical issues relating to the conduct of this research, and on-going contact with Traveller families is presented.

Section Two

Chapters 4 to 7 present the main analysis of the empirical findings. Individual chapters deal with the following areas:

Chapter 4: introduces the sample of Travellers interviewed, detailing whether individuals have arranged their post-separation parenting via informal means, or if they have had recourse to legal process. In addition, information is presented relating to the sample's current household arrangements, details of informant's children (age, gender, number) information on child-bearing relationships, and 'type' of post-separation parenting arrangement. After introducing the sample, an analysis of the legal and 'Traveller' definitions of a nomadic identity are presented. In addition, this chapter, presents a discussion on the concept of 'cultural capital' in the nomadic context, the continuum of Traveller identities and the process of self-ascription, which culminates in recognition of an individual as a member of the Traveller community.

In **Chapter 5** information relating to Travellers who initiate legal proceedings is presented, and (in the light of NTs general reluctance to engage with the law) an

analysis undertaken of the decision making and justification process undergone prior to commencing formal proceedings. In addition, in this chapter, we consider informants' subjective experiences of interactions with officers of the court, and the nature of court orders and case outcomes.

Chapter 6 deals with Travellers who respond to legal proceedings in relation to their children. In this chapter we discuss the nature of proceedings brought against informants, and their experiences of engagement with officials and court processes. In addition, a consideration is undertaken of 'self-help' tactics practiced by informants, and the ways in which 'community' advice impacts on working with solicitors and social workers who may have limited knowledge of the norms of Traveller behaviour.

Chapter 7 discusses the post separation parenting arrangements undertaken by Travellers who have *not* engaged with the legal system. In this final empirical chapter, we consider informants' expectations of, and attitudes to, use of the family law courts and discuss whether these Travellers' vary in attitude from those informants' who have engaged with formal processes. In the latter part of this chapter (drawing data from the entire sample of Traveller parents) we examine attitudes towards, and 'policing' of, domestic violence; lone fatherhood, children's autonomy and responsible parenting. Having considered the ways in which the close-knit NT community assists in sustaining parenting once parents have separated, we then conclude this thesis with a selection of Travellers' opinions on the benefits and burdens of parenting sustained across households, despite (or perhaps supported by) new relationships.

Section Three

Within the final chapter (**Conclusions and Recommendations**) the findings of the research is summarised, policy implications are discussed, and practice proposals made. Thus all elements of the research are combined, enabling a consideration of the ways in which the legal system can become more 'Traveller-friendly', and thus limit the socio-cultural impact of the family court system on members of this minority group.

In conclusion, while the informants in this study bear many similarities to each other in terms of their adherence to cultural norms and behaviours, it is important to remember that these are members of the most heterogenous group of nomads in this country. As such, self-ascription, (and recognition of identity by other members of the community) must take the place of a convenient identifying marker (Clark, 1997).

SECTION ONE

CHAPTER 1

THEORIES OF THE FAMILY

Introduction

In this chapter we set out to explore how far contemporary theories (and policies) relating to the family help to explain the parenting behaviours of New Travellers. As will be demonstrated in later sections of the thesis, Travellers in the main demonstrate a strong attachment to notions of community responsibility for children, and emphasise the importance of child-parent contact after relationship breakdown. However, coexisting with these values, is an expectation that members of Traveller society will formulate their parenting behaviour through the use of internally validated systems, and where possible, avoid engaging with legal proceedings over family matters. This finding has implications for the ways in which post-separation parenting behaviours, and routes into new forms of family arrangements after separation are devised, as family practices are informed not only by practical constraints, but also by the normative expectations and belief systems of any given community. Given the cultural diversity found in 21st Century Britain, it is self-evident that Travellers are not the only group who may consider it inappropriate to access a monolithic legal system at times of family dispute, (see Shah, 1999; Parekh, 1995; Lord Chancellor's Dept., 2002; for a discussion of minority ethnic families attitudes to 'use' of the law) and thus, the following discussion is likely to have relevance for members of other minority communities.

In order to set up the exposition developed in the empirical chapters of the thesis, this chapter will focus on the following areas

- Contemporary family policy concerns and their impact on legislative developments;
- Theoretical constructs of modern family forms;
- Empirical research into post-separation parenting regimes;
- How analogous research into minority ethnic and same sex families can inform an understanding of Traveller family practices;
- Whether existing literature relating to 'use' of family law explains New Traveller legal practices.

The Policy Context

It is widely recognised that a paradigmatic shift has occurred over the past thirty years in terms of family relationships (Giddens, 1992; McRae, 1993; Smart & Stevens, 2000, etc.). Expectations of personal relationships, attitudes towards (and duration of) marriage, female employment patterns, easily available contraception and termination of pregnancy, lower birth rates and the freedom for women to choose to cohabit, or live alone or with their children have all fundamentally altered the normative frameworks within which concepts of the family have been situated. Policy initiatives however, (and the attitudes of legislators and politicians), frequently operate within a time-lag, creating a separation between public conceptions of normative, (or at least socially acceptable) behaviour and official recognition of contemporary mores. Thus, discourse on family change is often framed by contrasting present household structures with a mythical golden age of two parent nuclear families with a working father and home-making mother. The fact that the nuclear household structure was uncommon and lasted for a fairly short period of history has been well documented (Anderson, 1971; Finch 1989; Laslett, 1972), however, the common perception remains that such families are both normative and the most stable units for raising children.

Over the past fifteen years, both in Britain and America, a combination of public concern and political and media rhetoric about changing family types, has led to significant debate over the 'crisis' facing modern families. For those commentators who adhere to the moral precedence of the nuclear family, the rapid change in family structure is thus interpreted as bringing about social disorder with negative impacts spreading beyond immediate family members to society at large (Murray, 1990; Phillips, 1998; Dennis & Erdos, 1993).

On each occasion that the topic of 'the family' returns to the public agenda 'moral panic' is engendered, and key themes are reiterated by politicians (Frank Field, BBC Newsnight, 8/7/93; Peter Lilley, speech to Conservative Party Conference, 7/10/92) and the media alike. Although Tony Blair (first conference speech after winning the

1997 General Election) offered a more sophisticated twist on the theme, recognising that “attitudes have changed”, by referring to the “modern crisis” facing society, he once again conflated alterations in family structure with “teenage pregnancies.....children growing up without role models...more and deeper poverty; more crime, more truancy” (The Guardian, 1/10/97). Thus by invoking the rhetorical device of decrying the modern decline in morality leading to the breakdown of family life (and hence social order) politicians and pundits focus on a perceived desire for stability in a changing world, using ‘the Family’ as a moral and ideological metaphor. In suggesting that ‘the family’ requires support from a strong government, a dual message is therefore presented, firstly that the nation will be cared for by legislators who are able to provide moral leadership, and secondly, that in a rapidly altering world the family *should be* a “pillar of stability...outside and above economic restructuring, market forces and financial, legal and political change” (Silva and Smart, 1999:2)

While political discourse around the theme of the family has remained relatively stable in recent decades, practical policy responses have altered over time, most noticeably since the advent of the Labour administration in 1997. In recent years, a raft of New Labour initiatives have seen a recognition, (and strong encouragement) of, women’s role in the employment market, with support for a National Child Care Strategy, and a commitment to reducing the number of children living in poverty through minimum wage legislation and targeted earnings allowances such as the Working Families Tax Credit. In addition, increases in Child Benefit and Income Support rates for children have been introduced for those families without an employed adult in the household (Millar, 2001). However, it is noticeable that these supporting struts of contemporary family policy, concentrate to a large extent on promoting a single ideal, with the answer to poverty and related social problems presented almost exclusively (and arguably, somewhat contradictorily) as requiring working parents (‘work-rich’ households) yet supportive families, where adults are always available to fulfil their parenting role (receiving advice from the National Family and Parenting Institute) through taking responsibility for their children’s actions (‘On Track’ schemes aimed at preventing ‘future criminal behaviour’, and a teenage pregnancy Taskforce: see Millar, 2001) while retaining financial liability for

youth lawlessness (even if the perpetrator of the offence is in their mid-teens, and potentially uncontrollable by a parent).

Thus, while a plethora of initiatives backed by supporting structures have been put in place since the late 1990s, (many with the explicit aim of ameliorating 'predictive factors' associated with poverty, lone parenthood and 'antisocial behaviour'), a continuity of policy *thinking* appears to exist between the current government and their Conservative predecessors (Pascall, 1999; Thomas, 1999). Not only have both of these administrations focussed on particular set themes whenever instigating new directives aimed at influencing public attitudes, but their heavy reliance on statistical data and the findings from focus groups as a justification for policy direction, is also remarkably similar. As such, lone parenthood, increased divorce rates, and the nature of, and justification for, Benefit payments, are analysed, debated and financially calculated to the utmost degree. A danger exists however, that by focussing almost exclusively on numerical dominance, it is possible to misconceive of the diversity of family life and the ways in which individuals represent their behaviours. Thus the riposte to political discourse is included in the following précis of contemporary policy preoccupations.

The decline in marriage and concomitant increase in cohabitation, (and births outside of marriage) is often interpreted as evidence of an end to stable, committed families. However, of the 38 percent of births registered to unmarried partners (1998) 79 percent of such births were registered by both parents, and of these joint registrations, the overwhelming majority of parents lived at the same address (ONS, Social Trends 28, 1998) indicating stability of union, at least at the point when a child is born. Rising divorce rates, which reached a peak of 180,000 in 1993 although declining to 159,000 in 1999 (ONS, Social Trends 31, 2001) are often perceived of in terms of the selfish individualism of parents (Silva & Smart, 1999) and this trend is cited as being responsible for myriad negative impacts on children (Boateng, Hansard vol. 279 col. 591, 17/6/96; Phillips, 1998, etc.). In contrast, a major review of literature relating to the impact of divorce on children (Rodgers & Pryor; 1998) indicated that only a minority of children suffer long-term negative outcomes after divorce, and most of these are associated with the poverty often experienced by lone-parent families.

The most significant change in parenting patterns however, (and one which has attracted an immense amount of negative political comment over the years) is found in the increase in lone-parent families. While this may not necessarily be a negative social trend, (on the basis that a happy lone parent is of more value to a child than two miserable ones), it is important to recognise the increased likelihood of poverty, and risk of loss of contact with parents living elsewhere, which is associated with such households. In 1999, twenty five percent of families with dependent children were headed by a lone parent; (ONS, Social Trends 31, 2001), having increased from around 8 percent of families in 1971. The statistical growth of lone parent families is mainly explained by the increase in female headed households, as figures for lone fathers have remained stable for the past thirty years, accounting for around 2 percent of families with dependent children. Despite the popularly mooted theory that many single women have become pregnant to access benefits and housing, evidence exists that the vast majority of lone parent households are created after the ending of a stable relationship (Bradshaw & Millar, 1991; Rowlinson, McKay & Berthoud, 1998; Smart & Stevens, 2000), with most 'never married' lone parents have achieved that status through cohabitation breakdown (Marsh, Ford & Finlayson, 1997; Payne & Range, 1999). Regardless of the gender of the head of lone parent families, it is clear that significant economic disadvantage accrues to the custodial parent following separation (Bradshaw & Millar, 1991; Burghes, 1991; Marsh, Ford & Finlayson, 1997; Bryson, Ford & White, 1997) mainly because of their over-representation as benefit claimants. Given that most lone parents are female however, it is difficult to avoid the debate on the 'feminisation of poverty' (Millar, 1989, 1994; Moore, 1996). Finally, it is clear that lone parents households are also frequently disadvantaged by social isolation (Cochran et. al. 1993; O'Brien, 1987; Edwards, 1992), a theme touched upon later in this thesis when lone parent Travellers discuss their attitudes to community.

In addition to poverty concerns, disquiet exists over the socio-psychological effects on children of the loss of paternal contact within a few years of parental separation (Mitchell, 1985). Although estimates vary for the number of fathers who have no contact with their children, it has been calculated that 40 percent of men have lost touch with their families two years after separation (Bradshaw & Millar, 1991), although more recent research suggests that this figure may be lower (Bradshaw et. al;

1999). When the 'absent father' discourse is combined with evidence that many men are failing to provide financial support for their non-resident children, and of those who do, payments are often made sporadically, thus increasing reliance on welfare benefits, (see Clarke, Craig & Glendinning, 1993; 1994; 1996; Child Support Agency, 1994) it becomes clear why considerable policy debate exists around the role of separated parents (and particularly fathers) in modern society (Connell, 1995; Collier, 1995). Some policy responses to these concerns, however, may simply be adding to the problems faced by already disadvantaged families, by incorporating poorly thought out strategies with populist 'knowledge' about the lives of those people most directly affected by legislative change.

The Legal Context

The brief overview presented above illustrates how both lone mothers, and 'absent' fathers, have been subjected to considerable negative discourse and problematised in policy terms. However, it is clear that with increasing diversity in family forms, large swathes of the population cannot simply be stigmatised, as at some point in the near future, almost all families will come into contact with relatives and friends who fail to conform to the stereotypical 'nuclear' family ideal. With personal knowledge of circumstances, it becomes harder to subscribe to a backlash against lone mothers, feckless fathers and other dysfunctional families. Therefore, for pro-active Governments dedicated to 'strengthening the family' (Conservative and Labour Party Manifestos, 1997) identifying a 'problem' and then expecting people to change their behaviour to fit in with policy, is clearly not an effective solution. As such, where strongly worded Government guidance does not influence the public's behaviour, it often becomes necessary to resort to 'social authoritarianism' (Thomas, 1999), to bring about the desired outcome, specifically by amending and devising new legislation.

However over the past decade, the lack of a coherent family policy has been revealed by the inherently contradictory results of the main enactments impacting on family life (Fox Harding, 1996; Smart & Neale, 1999). For example, the Child Support Acts 1991-93, were presented as ensuring that fathers 'fulfil their financial obligations' to children and thus demonstrate an on-going attachment to their first families. In practice, as has been well documented, (Clarke, Craig & Glendinning, 1993, 1994;

1996; Garnham and Knights, 1994) this legislation is essentially an enactment of fiscal policy, concentrating on recouping benefit payments to lone parents. In social terms, benefit savings are achieved at the high cost of divisive discrimination between first and second families, breakdown of previously amicable relationships between parents and children and loss of financial security for working parents in receipt of 'top up' benefits, who often wait weeks to receive payment through the Agency, while only being allowed a limited maintenance disregard. As such, this piece of legislation has been widely criticised as focussing on fathers purely as purveyors of financial resources and undermining the parenting role emphasised by other policy initiatives. The recent reforms plans (Child Support Agency, 2002) do nothing to change the fundamentals of this approach (Craig, 2002).

Similarly, the Family Law Act of 1996, in common with many previous statutes, attempts to reconcile two separate themes, that of 'supporting marriage and family life' (in the two-parent, heterosexual model) and permitting untenable relationships to be dissolved. In addition, this hodgepotch of enactments sets out to 'protect vulnerable family members' and 'encourage shared parental responsibility'. While some elements of the legislation are clearly thought out, (such as provisions relating to domestic violence) the legislation as originally passed emphasises a return to 'old-style' family values, by insisting not only on compulsory 'conciliation and information' meetings prior to allowing a couple to proceed to divorce, but also by amending the Matrimonial Causes Act 1973, to permit a return to *parental conduct* in assessing where contact and residence should be awarded. As such, this piece of legislation contains conflicting messages. It both acknowledges that parental separation is a reality accepted by many members of society, and attempts to control individual behaviours by making divorce far harder to obtain. Unsurprisingly, the concept that separating adults need to be counselled and advised prior to formally applying for divorce has been met with such hostility from members of the public, that these proposals have been quietly dropped following pilot studies into their feasibility (Hansard, 3/5/2001).

In contrast to the above legislative initiatives, s8 of the Children Act 1989 (see Chapter 2 for a full discussion of private law provisions within this statute) while incorporating elements of social engineering, is a well-drafted and internally coherent

statute, whose main aim is to devise post-separation parenting regimes which benefit both children and parents. By focussing on the importance of regularising parental-child contact, the Act incorporates an acknowledgement that assistance may sometimes be required in arranging post-separation relationships while avoiding an explicit (or implicit) drive to 'keep families together'. By recognising that family relationships cannot be assumed to follow one model, (and importantly, by avoiding the moral high-ground) this statute is the fore-runner of current policy initiatives based more on empirical research than hopeful adherence to a monolithic ideal of the 'family'.

However, for a government committed to devising socially inclusive and 'joined-up' policy initiatives, the lacuna in knowledge between recognising that fluid, structurally diverse families exist, and how to influence or 'support' them, is problematic. No single policy or legislative initiative will fulfil the same role for all members of society, and conflicting results may well be achieved when applying the enactment to individuals in differing circumstances. In addition, it is possible for genuine social trends to blur into reactive behaviours influenced by current legislation or initiatives (for example the upsurge in disputed paternity cases since the advent of the Child Support Acts, increasing from 2,907 cases in 1993 to 16,122 in 1998, and "around 20,000" in the year 2000: Hansard, 16/1/01) creating a lack of clarity over appropriate policy responses. Thus in order to inform the actions of legislative bodies, and ensure that appropriate checks and balances are in place to avoid discriminatory results for some members of society, it is becoming increasingly necessary to move beyond assumptions and expectations of parenting behaviours and examine *how* and *why*, family life is arranged.

The task confronting family theorists and researchers is therefore to contribute to the pool of knowledge on family practices, enabling a balance to be met between the rights and responsibilities of the state and private individuals in arranging their personal lives. In addition, where it becomes evident that there is widespread resistance to particular policy trends, by gaining an understanding of the reasoning behind this attitude, it may be possible to influence the practice and understanding of both service users and providers, thus moving towards consensus of opinion, or a "third way". The current study therefore follows this rationale, attempting to explain

Traveller parenting behaviours in relation to the 'way life is lived', and through the insights gained, suggest solutions (however partial) which enable Travellers to obtain a sense of ownership and stake-holding in relation to unavoidable legal interactions.

Theoretical Conceptualisations of 'the Family'

Before considering the ways in which this thesis interfaces with existing family research, it is necessary to contextualise the discussion in relation to post-modern family theory. Increasing political interest has led to an upsurge in theoretical understandings of the sociology of the family, assisted in part by a recognition that changes in other areas of society (such as employment patterns) could be explained by revisiting intimate relationships and considering them afresh. Thus, mainstream sociologists such as Giddens (1992) Beck (1992) and Beck and Beck-Gernsheim (1995) have contributed to the debate on the family through developing theories of post-modernism. While certain aspects of this study are informed by these theorists' work, in particular, Giddens' (1992) 'project of the self' which explains both negotiated gendered behaviours and the dependence of relationship stability on achieving personal satisfaction ('confluent love'), much of the theoretical underpinning of this thesis relies on research carried out by Finch (1989) and Finch and Mason (1993) who emphasise the importance of 'family obligation' when considering moral and symbolic relationships. Equally important is the work of Morgan (1991, 1996), who theorises on relationships in a wider sense than both Giddens and Beck/Beck-Gernsheim, (whose view of relationships supposes a essential gender conflict, centred on children as the emotional focus of heterosexual relationships once romantic love has died). Morgan, while analysing the family within the context of current theoretical thought, recognises the family's interrelationship with other aspects of society and the effects of economic and political change on family life. By concentrating on the individuality and fluidity of 'family practices' Morgan represents the family as an organic development rather than a monolithic structure, and enables recognition of kinship and friendship networks outside of conventionally defined blood or marital relationships, heterosexual orientation, or even co-existence within a single household.

While Giddens may go a long way towards explaining the prevalence of marital dissatisfaction leading to relationship dissolution, and Beck/Beck-Gernsheim theorise

that the increase in contested child residence and planned lone parenthood result from a search for a central defining relationship which brings closeness and identification to adult life; in the Traveller context where social expectations pre-suppose 'confluent' relationships and gender neutral parenting roles, Finch (and Mason)'s model offers the most plausible explanation for many of my empirical findings.

Finch theorises 'family obligations' as complex, negotiated patterns of kinship behaviour, modified by gendered, normative values, which create a network of economic, emotional and practical support. Norms of reciprocity are often woven into the patterns of obligation, (and see Webster & Millar, 2001 for a discussion of Traveller support systems) but reputation as a reliable member of the family who fulfils their kinship obligations, is of greater importance than expectations of return.

While in this thesis we are dealing with a wider group than recognised kin, research suggests that some Travellers consider themselves closer to their site companions than to their blood relatives (Lowe & Shaw, 1993; Earle et. al, 1994; pilot study, 1999, and see Chapter 4), and as such, obligations to other members of the Travelling community may be held to replace (or co-exist with) kinship responsibilities. Thus when Finch and Mason (1993) argue that for a person to step outside of the caring commitments they have built up over time, they must be prepared to risk both loss of reputation and being seen as 'unnatural', it becomes clear that kinship roles are as much a moral category as a social one. Although shared group (or family) understandings about 'the proper thing to do' emerge over time and in specific situations (Finch, 1989), not all members of a network will agree or disagree with a course of action, depending on their personal circumstances, and relationship to the key player within the network. As such 'correct behaviour' is a negotiated category, varying according to a person's position in 'inner' or 'outer' kin circles, as personal ties place different depths of obligation upon individuals. In addition, gender, age and ethnicity will all impact on expectations of normative behaviour. When Finch's notions of 'networks' are combined with Morgan's 'fluid, organic families' it therefore becomes possible to devise a theoretical framework which incorporates Traveller notions of family and community responsibility, themes which are expanded upon in later sections of this thesis.

Having encapsulated a post-modern theory of the family which provides a framework for understanding Travellers' commitment to practicing 'confluent relationships' while engaging in a network of community obligations, it is time to consider the body of empirical research on parenting, and examine whether these studies shed any light on Traveller family practices.

Empirical research into post-separation parenting regimes

A growing body of research into diversity in parenting arrangements has been stimulated by the ESRC 'Population and Household Change' programme (1994-1998) aimed at discovering the 'interrelationship between household living arrangements and broader demographic change'. This programme has proved a fertile ground for stimulating research into a family subjects as diverse as lone parenthood (Berthoud, McKay & Rowlinson, 1998), absent fathers (Bradshaw et. al, 1999) and intergeneration ties across families (Bornat, et. al., 1999), feeding into a pool of knowledge of modern family practices. While these projects prove of interest for comparative purposes, as will be shown, Traveller post-separation parenting patterns tend to vary considerably from 'mainstream' norms. However, in terms of routes into parenthood, and debates on 'inadequate' families it is self-evident that similarities will be found between 'settled' and 'Traveller' populations.

Research into lone parenthood frequently focuses on breaking the link between discourses on 'the underclass' and parental status. Given harsh media representations of Travellers (Murdoch, 1994), almost by definition, members of this community are often perceived of as members of a 'sub-criminal' class (see IEA, 1995, 1997; Woodhead, 1998 for a discussion on the concept of 'sub-criminality'). Thus, the question of whether social exclusion and limited life choices affect responses to unplanned pregnancy remain valid for both housed and Traveller women. While right wing pundits often claim that unmarried mothers become pregnant to obtain access to state benefits and accommodation, (Murray, 1990; IEA, 1995; Phillips, 1998) research findings fail to support these assumptions (Rowlinson, et al., 1998). What is clear however, is that single women from lower socio-economic backgrounds with poor or no qualifications, are more likely to become lone parents (Haskey, 1989; Rowlinson, et. al. 1998). The self-evident facts that Travellers do not wish to access settled housing, and entitlement to welfare benefits alone are unlikely to prove enough of a

reason for having a child when faced with the physical difficulties of living 'on the road', support findings relating to motivation for pregnancy. Variation however, is found in relation to the socio-economic background of Traveller and 'housed' single mothers. Both the pilot study for this project, and the main doctoral research, indicated that the majority of Traveller women interviewed had access to employment opportunities and qualifications which enabled them to work in specialised areas (e.g chef, nursery nurse, supply teacher, etc.) or in an unskilled role over the summer festival circuit. The availability of on-site child care on a reciprocal basis (Webster, 1999; Webster & Millar, 2001) further supports women's access to employment opportunities. These findings, when coupled with evidence that children are highly valued among the Traveller community (see Chapters 4-7; Webster 1999; Earle et. al; 1994) are therefore suggestive of the fact that single parenthood in the nomadic context may involve a degree of active choice, rather than being a mere response to limited life options.

The prevalence of community support in the Traveller context (see Chapters 4 and 7) relates also to Bornat et. al.'s (1999) research into generational ties in divorced families. While in that study, the researchers found that the strength of personal connections (a la Finch), has a major impact on the quality of continuing relationships post-separation, they concluded that gendered expectations of behaviour were important to understanding notions of responsibility and on-going contact. Thus, culturally prescribed roles relating to 'care giving' often appeared to 'trump' the reality of fractured personal relationships and (sometimes) distinctly poor behaviour by one or other party, leading to a reassertion of embedded, 'feminized' behaviours. In contrast, the pilot study for this project discovered that while the majority of Travellers retained contact with their natal relatives and considered that it was important that children saw their housed relatives, day to day support and communication was focussed far more closely on site companions. The diverse Travelling community tends to remain in touch with each other through a wide network of mutual friends, considering themselves part of the same community even when face-to-face contact is sporadic. In general, an expectation exists that social relationships with ex-partners and their natal and current families will continue, regardless of couple separation, or the hostility engendered at that time. Whether a person had genetic connections to a child is considered of less importance than social

parenthood, and blood relatives of Travellers are also expected to adhere to this community norm. Thus expectations of moral responsibility towards an individual appear to focus less on gender specific roles or quality of personal relationship than on having taken on 'family' status through membership of a close knit community. Gender variations in this attitude appeared slight. Informants' contact with housed ex-in laws however, tend to follow the pattern identified by Bornat et. al.(1999), with personal warmth affecting quality and quantity of adult contact.

Similar contrasts exist when comparing Traveller attitudes to masculinity and fatherhood with the growing body of 'mainstream' research on male roles (Speak, Cameron & Gilroy, 1997; Burghes, Clarke and Cronin, 1997; Walker, Simpson and McCarthy, 1997; Bradshaw, et. al; 1999). As is demonstrated in the empirical chapters of this thesis, strong social expectations exist that Traveller fathers will participate in their children's lives, although in nomadic circumstances, members of the community often take on the facilitation role fulfilled by relatives of young fathers in the housed population (Speak, Cameron & Gilroy, 1997). The difficulties faced by 'housed' men in retaining contact with children (Burgess, Clarke & Cronin, 1997; Bradshaw et. al, 1999; Smart & Neale, 1999) are mitigated by Travellers access to their own accommodation; and flexible working and education patterns among this group enable fathers to have contact with their children for longer periods of time than is possible when working with rigid time constraints. Dey and Wasoff (2000) when considering the policy focus on 'absent' fathers, note that discourse centres on "maximising views of parenting roles, rather than adapting parenting ideals to practical realities" (p1). In the Traveller context, clear account is taken of the abilities and constraints faced by individual parents, and this community support also encourages fathers to develop their parenting skills during periods of 'block contact' where they retain sole responsibility for children. In Traveller society therefore, males who may need support in assisting them to parent, are able to develop 'caring' practices but in a manner suited to their lifestyle and culture, thus avoiding the concerns voiced by 'mainstream', housed fathers who attend social services 'family centres' (Ghate, Shaw & Hazel; 2000)

Given that the majority of Travellers interviewed were unmarried parents - following both demographic trends found in the 'mainstream' community, and (perhaps) an ideological tendency to avoid formalised gendered relationships - a comparison was possible between the current research and Pickford's (1999) study into unmarried fathers' knowledge of family law. Little variation appeared to exist between Pickford's findings and the level of legal knowledge displayed by Traveller fathers, with both groups considering marriage was irrelevant to their relationships with children, and expressing concern over the difference in legal status between married and unmarried fathers. In addition, the current research found, (in common with both Pickford and Smart & Stevens (2000)) that childbearing among cohabitants tended to have commenced fairly soon after the beginning of a relationship, with pregnancy precipitating cohabitation in a number of cases.

While Traveller relationship patterns are similar to those found in 'mainstream' society, parenting roles tend to show distinctive cultural variations. Recent studies into post-separation parenting (Smart & Neale, 1999; Bradshaw et. al., 1999; Smart & Stevens, 2000) have focussed on the shifting ethos of parenting, (encapsulated by the provisions within the Children Act and the Child Support Acts) and the requirement for separated partners to move from an expectation of 'clean break' at the end of a relationship to acknowledging a long-term connection based on child contact. While the presumption exists that parents will attempt to come to their own maintenance and contact arrangements, utilising the law as a last resort, the fact remains that regardless of a couple's attitude towards each other, through having a child together, they are bonded legislatively, financially (and some would say ethically) for anything up to eighteen years, a period of time which is considerably in excess of many marriages.

Whereas a extant relationship between adults will alter over time with negotiated arrangements occurring over parenting roles; when a couple have separated (sometimes with extreme hostility and distress) and lives have diverged, reaching agreement over children is inevitably a more complex matter. While gendered expectations of parenting roles may exist during the lifetime of a relationship, (Arber & Ginn, 1995; Smart, 1999; Warin et. al., 1999) post-separation, both mothers and fathers have to reassess their caring behaviours. For women, 'letting go' of their role as primary carer and 'trusting' their ex-partner to care for children adequately, may

prove difficult (Smart, 1999; Smart & Neale, 1999) and can cause anxiety over their diminished social role. Conversely, non-resident fathers find themselves faced with the responsibility for building a new form of relationship with their children and taking on the role of primary carer, at least on a part-time basis. For fathers who may have relied upon their partner to mediate relationships with children, or as a result of long working hours have had limited contact with their children, developing a care-providing relationship can prove equally demanding, particularly when faced with expectations of how a father 'should' behave. (Bradshaw et. al., 1999; Dey & Wasoff, 2000).

Thus 'parenting across households' (Smart & Neale; 1999) involves a new set of challenges for both former partners. For women in particular, moving from 'spouse and mother' to one half of a parenting relationship, often involves forcing a former partner to take on a recognition that both parties have work and family responsibilities, and that it is neither possible or desirable to perpetuate pre-separation roles across households. (Smart, 1999: 108-109). In contrast to mothers' perceptions, fathers reported a wish to take on additional responsibility for their children, but felt that they were constrained by structural, (working hours, lack of accommodation, timing of visits) financial (expense of outings, costs of travel, etc.) and emotional (hostile ex-partners, balancing new relationships, stress over relationship breakdown) difficulties (Bradshaw, et. al., 1999; Dey & Wasoff, 2000; Simpson, et. al, 1995). Accordingly, disputes over gendered division of labour and the value of 'care work' (Sevenhuijsen, 1999 cited, Smart & Neale, 1999) may recur in separated relationships, increasing hostility between parents who are forced to remain in contact over their children.

Smart and Neale (1999) in attempting to unpick 'post-divorce' parenting relationships, have found that the most successful arrangements tend to involve co-operation and communication between adults, regardless of the duration of the relationship or warmth of feelings towards each other. Where parents can recognise that they are involved in a joint project, and change their behaviours across time to facilitate contact and residence arrangements, unsurprisingly, both children and adults benefit. While parenting may often be a fluid arrangement, with children moving from residence with one parent to the other as they become older, or adult circumstances

alter, or simply through electing to vary levels of parental contact according to growing autonomy; co-operation between all parties can lead to increased respect and enhanced life opportunities. Inevitably though, given the minefield of personal relationships and the necessity to take account of changing personal circumstances, rigidly enforced contact and residence placements can enable manipulative former partners to retain a hold on a spouse and significantly limit their sense of agency and autonomy. Thus, Smart and Neale conclude, "current policy on post-divorce parenting....takes little notice of the practices of parenting which include not just the adult's relationship with the child, but also the quality of the relationship between parents" (1999:199).

Smart and Neale's findings on the importance of acknowledging quality of parental relationships when considering contact and residence arrangements are further supported by Bradshaw et. al.'s., (1999) discussions on the symbolic role played by child maintenance payments. Bradshaw's team found that fathers' willingness to make a financial contribution to their children's upbringing was closely linked to quality of social contact with their former partner and her willingness to facilitate contact. Thus fathers tended to perceive of financial support as a tangible representation of an on-going commitment to children, and in exchange, mothers were expected to ensure that contact occurred. As such, expectations of 'correct' behaviour and balanced reciprocity, are once again filtered through gendered perceptions of parenting roles, with the man cast as financial provider and the mother as mediator of father/child relationships. Where a mother was believed to be obstructing contact, then fathers' often felt reduction or non-payment of maintenance was an appropriate response (op. cit. 1999:221).

Gendered expectations of behaviour are also of importance when considering patterns of residence and contact found in 'mainstream' parenting samples. Smart & Stevens (2000) found that of their sample of separated cohabitants, "almost all felt that it was important that children should know their fathers, but were content with the idea that mothers were the primary carers" (2000:41). In line with this conception of parenting roles, in their study of former cohabitants, only 7 out of 40 couples practiced shared parenting where children divided residence between both adults. Similarly, in Smart & Neale's sample of 60 separated parents, ten families shared residence of their

children, and Bradshaw et. al, found that thirty out of 619 fathers reported a shared parenting relationship. Thus, this particular form of post-separation parenting arrangement seems to be relatively uncommon among 'mainstream' families, although (as discussed in Chapters 5-7) frequently practiced (or aspired to) by Travellers.

Reasons for the low reported numbers of shared parenting arrangements among 'mainstream' families, while related to normative expectations of parenting roles, may also include complex factors such as employment patterns and working hours of fathers, continuity of education for school aged children and access to suitable accommodation. In support of this supposition, Bradshaw et. al., (1999:121-123) and Smart & Neale (1999) report that regularity of child contact is often related to geographical distance, partnership status, family support, and work commitments. If these factors impact on typical patterns of alternate weekend contact, it is clear that to sustain full shared residence, parents must exhibit a significant degree of commitment. As Smart and Neale (1999) conclude, shared parenting at best is often an "uneasy compromise", as to successfully parent in this manner "constant negotiation" is required and often an "individual's own needs for independence, a change of residence or career or a new relationship are postponed" (p59).

While the literature relating to post-separation parenting refers extensively to the role of families of origin in supporting and facilitating contact in difficult circumstances, (Smart & Neale, 1999; Bradshaw, et. al., 1999; Burghes, Clarke & Cronin, 1997), limited information is available on other sources of social support. Both Bradshaw et. al., (1999) and Smart & Neale (1999) refer to informants' minimisation of new partners' roles in post-separation parenting arrangements and the inherent *problems* in building step-family relationships, but in most family literature, beyond acknowledging that new partners exist, little recognition is given to their roles, or that of friends and neighbours in facilitating child contact. Thus at present, a gap in knowledge exists when considering the ways in which networks interact in providing support for families after parental separation, and how members of a group see their supportive role, views which may well vary according to the culture and context within which respondents operate.

In considering the ways in which social networks encourage and support post-separation parenting arrangements, it is important to recognise that the majority of literature focuses on white heterosexual 'normative' families, rather than 'family practices' in their widest sense (Morgan 1996). Beck and Beck-Gersheim (1995) consider that shifts in expectation have led to men (as well as women) wishing to centre their post-divorce experience around love of their children. This theory however, is predicated by the assumption that an extreme gender division exists, with men re-evaluating their family relationships in the light of marital breakdown, and coming to envy women for their access to both children and employment opportunities. While this may be true of some sectors of society, it clearly does not explain the dynamics of same-sex families' parenting arrangements, where by definition, assumptions of gender inequality and roles within relationships are not fixed. It is unlikely too, to provide more than a partial explanation for minority ethnic family practices, where the role of extended family members, and community norms, may be of critical importance in explaining behaviours. In addition, many Traveller family practices are outside of Beck and Beck-Gersheim's model, as within the nomadic community parenting is often seen as gender neutral, while expectations exist that both parents will participate in child-rearing in a (reasonably) co-operative manner.

Thus, the problems inherent in concentrating on family behaviours as culture-blind are manifold, enabling the experiences of 'non-normative' families and groups to be (at best) marginalised, and at worst pathologised. This is particularly true of minority ethnic families, who are virtually invisible in post-separation parenting debates, despite the attempts of researchers to include a representative sample of non-white participants (Smart & Neale, 1999; Children Legal Centre, 2000; Bradshaw et. al, 1999). However, once the definition of 'family' is widened to encompass a full range of personal relationships and supportive networks (Silva & Smart, 1999), a concept which children appear to find unproblematic (Dunn & Deater-Deckard, 2001; Morrow, 1998); it may prove possible to move beyond rigid policy delineation and extrapolate a range of responses to cross-cultural family problems. Thus without a wider knowledge on 'non-normative' families, our comprehension of practices which may prove relevant to many family groups, remains limited.

In the Traveller context for example, 'community' occupies the practical and symbolic role in supporting families which is traditionally associated with blood relatives in housed society. Given that Travellers are a fairly new culture, and in a sense are making their own history, they can be said to be devising 'new family practices' (Silva & Smart, 1999) which suit their particular lifestyles (see Chapter 7). As such they occupy a position similar to same-sex families in negotiating social roles on a daily basis (Giddens, 1992), through combining gendered behaviours learnt from the natal family with new ways of 'doing family'. In order to gain an understanding of Travellers' conceptualisation of family, it is therefore relevant to consider the ways in which minority ethnic and same sex family practices may inform our knowledge of this particular group.

Alternative Paradigms of the family (Minority Ethnic and Same Sex Families)

While, as mentioned above, the majority of empirical family research focuses on restructured nuclear families, 'alternative' forms of family life may be the norm for certain sectors of society. Although individuals living in these differing types of family cannot help but be aware of the mainstream model, in some circumstances 'alternative' families may be less selected than imposed by a particular cultural milieu. Thus, family and parenting patterns found amongst some minority ethnic groups, while presented ideologically as dysfunctional, may be totally culturally appropriate and merely deviating from the norm of white society. For example, it is arguable that the tendency found in some localities (particularly those which are work-poor) to have a high percentage of lone parent households with associated male marginality, while perhaps a new trend in terms of White British culture, represents a logical economic and social development which has been long been identified amongst Afro-Caribbean communities (Baylies, 1996). Thus, we may be seeing a shift of parenting patterns across ethnic and social boundaries as a result of economic change. Potentially therefore, not only class, but also issues of implicit (and/or explicit) racism must be taken into account when debating the structures of alternative forms of household.

While statistically, it would appear that Afro-Caribbean women are five times more likely to become never partnered lone parents than white women (Rowlinson, McKay & Berthoud, 1998) Asian women who give birth whilst not in a relationship are

extremely rare (Beishon, Modood & Virdee; 1998). As such, an Afro-Caribbean woman who becomes a never-partnered lone parent at a fairly young age, is less likely to be stepping outside of her cultural norm than a white or Asian woman, who may well be subjected to significant moral or social disapproval. Conversely, if a Caribbean woman elects to follow the normative 'white' pattern of family formation (which is increasingly happening amongst educated and middle-class Black families) she is merely accessing an *alternative* type of family structure, which is fairly readily open to her. Research concerned with the Caribbean family (Greenfield, 1966; Barrow, 1996; Chamberlain, 1999) emphasises the immense importance of matrifocality and the associated marginalisation of males. Thus, the transposition of female headed families to another cultural milieu is not perceived of as abnormal by Caribbean women, although it does deviate from traditional British norms (Baylies, 1996). While relatively little is known about the parenting norms of ethnic minority families and the ways in which interaction with British culture have affected cross-generational transmission of culture (Atkins, 2001), work in progress at the University of Leeds (Atkins/JRF) is currently considering the ways in which ethnic origin influences parenting values and access to informal support networks. The work presented in this thesis therefore links into our understanding of the impact of policy and practice on cultural behaviours, and context dependent knowledge.

As discussed above, comprehension of historical and social structures is critically important to understanding 'alternative' family forms, and it is at this point that Giddens' (1992) theory of "pure relationships" (devised through constantly renegotiating interpersonal boundaries) intersects with existing paradigms. Through comprehending structural constraints on families, we can see how members of a community "create their own history" (Weeks, Donovan & Heaphy, 1999) by building personal and social relationships within a new context. For example, New Travellers will develop relationships with other individuals and families within their social world, and as a result of these developing structures create both a normative form of Traveller family and an interface between mainstream and Traveller family forms which in turn creates its own dynamics.

If theorists such as Giddens (1992) and Finch (1989) are correct that 'family' has conceptually developed from purely blood or marriage type relationships to embrace

other forms of "intimate connectiveness" (Silva & Smart, 1999) where relationships are custom built to suit the needs and desires of participants, then by definition, claiming a person as a member of a family interweaves them into a network of care and obligations. Although some aspects of the relationship will be 'givens' where formalised expectations of a role exist, other factors (such as personalities) will come into play in creating a unique niche for the individual. Beck & Beck-Gernsheim (1995), whilst dealing almost exclusively with biological parental roles towards children when considering the impact of divorce on patterns of "post-marital 'separation marriage'", touch on the position of step-parents and their children entering into relationships with first families and ex-partners. It is at such moments that new forms of connection must be made and ways found for dealing with conflicting emotions, within essentially 'unmapped' and 'unnamed' relationships. As will be demonstrated in later sections of this thesis, parenting within the Traveller community may well involve several interconnected families who are both members of the same community and related through a series of partnerships and child bearing relationships. Thus, while no terms may exist to describe these connections, in a very practical sense these individuals are interwoven into each others' lives. The descriptions informants give of these new forms of family structure therefore often involve a range of terms and concepts, incorporating both expectations of adherence to community norms and prior personal relationships, blended to form a new dynamic.

In seeking to understanding how Traveller relationships work in practice, it is important to consider the literature relating to lesbian and gay families, as interesting parallels exist between these two cultures. For our purposes, the most pertinent similarity consists of the ways in which members of both of these societies have (to some extent) exercised agency in *choosing* a lifestyle (as opposed to *given* identifiable markers such as ethnic origin) and emphasise building social networks to create a strong community with internally coherent norms. While Travellers' identity and practices are centred upon a particular commitment to nomadism, 'out' lesbians and gay men similarly experience a distinctive life course, based upon sexual orientation.

Giddens (1992) identifies lesbian and gay families as being at the vanguard of changing forms of intimacy, devising new forms of relationship within a pluralist society. By analogy, he could equally be describing family practices followed by New Travellers, although the conception of children among Travellers is usually a less reflexive and conscious process, than that followed by same-sex families. While routes into parenthood are distinct within the two cultures, complex families are found in both groups. Planned parenthood among same sex families often consists of collaboration between gay males and lesbian couples, thus some children's families may consist of two sets of biological and social parents (one gay and one lesbian), sometimes existing in relationships of friendship, and co-parenting together despite having a non-sexual, cross-household lifestyle. Similarly, Traveller families may consist of half and step-siblings, sometimes from more than one set of relationships, former partners, their current partner and any new children brought into the grouping. Clearly in such situations, familial roles are in existence, but the lack of a historically ratified behavioural 'map' for the individuals in such relationships means that all aspects of parenting, care work and inter-household relationships are potentially negotiable. Of particular interest, is the way in which such 'new' household types relate to their partners' or children's blood kin, who presumably often have to come to terms with their relatives' non-normative lifestyle while seeking new ways of identifying with, and relating to, their newly acquired family connections.

Whilst lesbian and gay studies have commented on the necessity of finding new terms to explain the relationships between non-biological parents, co-parents and other relatives, and have also dwelt on the lack of comprehension of such relationships amongst external agencies and individuals (Wolf, 1994; Clausen, 1987; ROW Lesbian Mothers Group, 1987); within the same-sex community itself, it is clear that such relationships are constituted as family ties (French, 1992; Buxton, 1994). Of particular interest is the way in which boundaries between 'family' and 'lover', 'partner' and 'friend' are blurred within the lesbian and gay community (French, 1992), mirroring the findings of the both the current research and the pilot study into Traveller family relationships.

Although in the lesbian and gay context, some conservatives have argued that 'pretend families' are merely an attempt to achieve respectability for deviant

behaviour patterns, Benkov (1994) suggests that in 'coming out' to heterosexual families of origin, many lesbian and gays lose some (or all) degree of support from their natal family. The pilot study for this research similarly noted that many Travellers came into conflict with their birth families when adopting a nomadic lifestyle. Additionally, young people who become Travellers after leaving care or through breakdown of family support systems, tend to report that members of the nomadic community are 'their family' (Lowe & Shaw, 1993; pilot study, 1999)

In such situations, the support offered within a marginalised or 'alternative' community can be critical. Thus, Weeks, Donovan & Heaphy (1997) found that for many lesbians and gay men, the terminology of 'chosen family' incorporates both cultural and symbolic meaning, characterised by the notion of 'everyday experiments in living' with concepts of responsibility, mutual care and commitment central to belief in the 'family' group. In particular, they found that parenting arrangements were often quite complex, involving parents, lovers and ex-lovers in an "extended family type arrangement". Hence, 'families of choice' can be of profound significance in both practical ways, and in creating a sense of security for an individual. This finding is of importance to the discussion of Traveller identity which is presented in Chapter 4 of the thesis, and may also help to explain the finding that (at least within the sample dealt with in this study), Travellers are reluctant to engage with legal proceedings against members of their community when family relationships break down. I would suggest that in their marked preference for extra-legal and intra-community dispute resolution, NTs conform to the model of 'marginalised' and minority communities (Cahn, 1999; Off the Beaten Path, date unknown; Burbidge, 1998) whose disinclination to engage with legal proceedings in the arena of personal relationships "reflects a desire to safeguard the integrity of the group or family, to minimise risk [to the group] and save face" (Canadian Justice Department, 1998).

While Travellers and same-sex families may be creating relatively new forms of community structure, the concept of 'selected families' is not new. 'Fictive families' (to use an anthropological term), are widely recognised as providing relationships of mutual benefit to their members and moreover are found in many cultures. To some extent the nature of these groupings has been explored in both historical and anthropological research into family practices. Rapp (1982) focused on ways in which

Black, Native American and white working-class families expanded their kinship networks. He found that reliable friends of some years' duration were regularly incorporated into family groups, with members of the community sometimes prefixing relationship titles (such as 'Aunty') to personal names, to show commitment to the relationship. Similarly, Gittins (1977) refers to early 20th Century British patterns of non-kin living in close physical proximity assisting with semi-communal child care, a theme which is revisited in the empirical chapters of this thesis. Finally, children in some working class communities in Britain still use the terms "Aunty" or "Uncle" when referring to friends of their parents, in a similar manner to the way 'respect' terms are used in Hindi and other Asian languages with reference to an older person who is connected to the family network. 'Fictive kin' are therefore found throughout a variety of 'alternative' or minority families, and in all cases occupy a position of importance in supporting community members.

In addition to providing practical support such as childcare, 'chosen' family may also occupy a symbolic role in assisting migrants to establish themselves within a new environment. Evidence exists that where 'fictive kin' networks are widely utilised in pre-immigration locations, re-creating such connections in a new context assists in establishing a sense of solidarity and community in a potentially hostile environment (Chamberlain, 1995, 1999). By analogy, Rubin's (1985) suggestion that friendships and the bonding associated with shared experience offer a special form of security associated with maintenance of self and identity, holds as true for Travellers as for other minority groups (and see Chapters 4 and 7).

It can therefore be seen that research into 'alternative families' may inform our knowledge and understanding of Traveller networks more accurately than 'mainstream' studies of parenting patterns. Given the marginalised nature of Traveller communities and the necessity to practice certain social and economic strategies to maximise family members' resources, semi-communal child-care and shared parenting behaviours represent a rational response to structural constraints (and see Chapter 7). Similarly, the 'confluent relationship' pattern commonly found among Travellers, while potential destabilising unions through ease of dissolution, also allows for the development of new ways of 'doing family' through the incorporation of 'fictive kin' and new partners. Moreover, the lack of structured, normative roles for

members of these 'new families', when coupled with notions of equality and non-judgmentalism, (cited by Travellers as key elements of their ideology, see Chapter 4), permits a blurring of gendered behaviour roles, in a manner similar to that found among same sex families.

Family Structure and 'use' of the Law

The above overview of empirical research indicates that in terms of family practices, greater similarities exist between Traveller and other 'alternative' groups than between Travellers and 'mainstream' households. However, limited qualitative data exists in relation to engagement with family law processes, and where it is found, tends to focus on contact disputes among 'mainstream' families. In this section of the literature review we therefore consider whether research into family court interactions can shed any light on Traveller attitudes towards, and experience of, formal legal proceedings relating to children.

Findings from qualitative studies relating to family proceedings tend to show that formally married couples are more likely to engage with Children Act proceedings than cohabitants (Smart & Neale, 1999; Genn, 1999; Bradshaw, et. al., 1999; French, Hamilton & Pringle, 2001). While these finding may relate in part to the higher number of married than cohabiting interviewees in these studies, on calculation of the percentage of each group who sought legal advice or went to court, variation by marital status still holds true. It is possible that married couples' more frequent resort to law in disputes over children relates to the necessity to use legal routes out of marriage, and hence the institutionalised connection between ending a relationship and formalising residence of children. Given that no figures are available for couples who use 'DIY divorce' as opposed to solicitor arranged proceedings, it is not possible to confirm this supposition, although Genn's research into use of the law (1999) found that the overwhelming majority of couples with children seek legal advice on marital breakdown. Certainly in the Traveller sample interviewed for the current research, the one informant who was married when a contact dispute arose, immediately sought advice from the solicitor dealing with his divorce, in contrast to unmarried couples who were initially more reluctant to approach legal professionals.

While divorce proceedings do not necessitate seeking a s8 Children Act Order, a “statement of arrangements for children” must be completed when filing for dissolution of marriage, and this requirement may also reinforcement awareness of legal rights and responsibilities and the necessity to clarify parents’ position, regardless of whether they have sought prior legal advice. In support of this supposition, Hibbs, Barton & Beswick’s (2001) study of couples on the verge of marriage, found that 15 percent of their sample had considered their legal position prior to agreeing to marry, indicating that the formalised nature of the relationship, may in some cases lead to increased awareness of legal complexities.

In contrast, Smart & Stevens study of cohabitation breakdown found that “[cohabitants] operated with a form of cultural custom and practice which might be influenced by legal developments [such as the Child Support Acts and the Children Act] but more often seemed to stem from a less than clearly articulated sense of general morality. [and] were very suspicious of going to law, not simply because it might be expensive, but because of its ‘foreignness’. The law was regarded as an alien system which was best avoided” (2000:41). While the problems involved in resolving parenting disputes (or indeed establishing a post-separation parenting regime) appear to relate more to the quality of the parental relationship than to a couple’s marital status (Smart & Neale, 1999; Smart & Stevens, 2000; McRae, 1993) overall, cohabitants appear more reluctant than married individuals to seek legal advice until “they have to” (Smart & Stevens, 2000:41). Thus, the Traveller ‘court case’ sample (see Chapters 5 & 6) appear to vary little from other cohabitants in this respect, although as is demonstrated in the empirical chapters, Travellers move through a lengthy process of community validation prior to seeking legal advice (see Chapter 5), as to do otherwise is seen as breaching the ideological and ethical codes of their community. In contrast, while ‘mainstream’ cohabitants may be reluctant to seek legal advice (Smart & Stevens, 2000) empirical research does not indicate a particular ideological objection to use of the law. Indeed if it were found that cohabitants’ avoidance of the law was based on ethical objections, this would tend to suggest that cohabitants *per se* adhered to a set of values by virtue of their relationship status, a suggestion which is negated by studies which include both married and unmarried parents (Smart & Neale, 1999; Bradshaw et. al, 1999; Barker, 1994; Pickford, 1999). Overall, therefore, it does not appear possible to meaningfully differentiate between

married and 'committed' (as opposed to 'casual') cohabiting parents' attitude to their relationship and children, although some indications exist that cohabiting relationships (at least prior to the birth of children) may be more egalitarian than marriages (Baxter, 2001).

The fact that cohabitants consider the law to be 'alien' to their everyday lives (Smart & Stevens, 2000) when in practice this group consists of a substantial minority of families, suggests that for members of other non-normative or 'invisible' minorities the sense of dislocation from the legal process may be more acute, creating an even greater reluctance to seek legal assistance at times of crisis. Among the policy and academic community, a growing awareness of some communities' sense of disempowerment and inequitable access to the law, has led to the Institute of Advanced Legal Studies (University of London) initiating a programme of research into 'barriers to access to justice' in an attempt to understand factors which impact on individuals' process through the civil law system. While the newly commissioned research is currently focussing on 'unrepresented litigants' (a category which will include non-legally aided domestic violence victims seeking injunctions and applicants for s8 Children Act orders), the Lord Chancellor's Department is also calling for tenders for research into minority ethnic communities experience of legal proceedings. Within both of these research programmes, it is likely that family related disputes will prove to occupy a significant role in terms of numbers of litigants, as disputed s8 Children Act applications have risen steadily over the past decade, reaching a total of 114,518 cases in 1999, the last year for which figures are available (Lord Chancellors' Department, 2001).

While litigants may lack financial resources to enable them to be represented in court, thus limiting their chance of a satisfactory outcome (see case study in Chapter 6), institutionalised discrimination, (or fear of such discrimination) can create an additional barrier to accessing justice. Although in Britain, limited research exists around minority ethnic groups' parenting patterns (Atkins, 2001; Chamberlain & Goulbourne, 2000); and even less about their engagement with family law and social services proceedings (Anderson, 1997; BASW, 1987), some evidence exists that members of ethnic minority groups may be uneasy about interacting with formalised

family court systems, believing that they will be culturally misunderstood or treated in an inappropriate manner (Shah, 1999; Anderson, 1997; BASW, 1987; Parekh, 1995).

In contrast to the 'invisible' nature of ethnicity in British family courts, in Australia considerable debate exists on the role of culture in accessing (and experience of) family proceedings. A leading conference on "Ethnic Diversity: Challenges for Family Courts" (Melbourne: October 1998) reiterated the importance of legal professionals' sensitivity to cultural background when dealing with members of non 'mainstream' communities, and warned that "without appropriate consideration of culture, the Court, aided by various professionals may disrupt childrens' lives and attack basic cultural values and worth" (Abela & Borg, 1998:3). Conference proceedings focussed particularly on the potential for family conflict where a child came from a 'mixed culture' with the "culture of the parent with whom the child resides, frequently appearing to the non English speaking background party to dominate outcomes" (Abela & Borg 1998:3).ⁱ As a similar impression is held by a number of informants whose cases are presented in later sections of this thesis, judicial guidance on cultural awareness would go some way to sending the message to Travellers that their lifestyle was respected, and treated as validly as 'housed' mainstream culture.

At the Melbourne conference, the role of alternative dispute resolution in family cases was also considered, and contrasted with formalised legal action. Once again, an analogy may be drawn between 'informal' legal behaviours and full court proceedings in Traveller cases (see empirical section), as research undertaken by the Fijian Law Reform Commission (Fenton, 1998) found that where both parents were members of an ethnic minority community, or the parent from the 'dominant cultural group' was willing to undertake 'traditional' negotiations prior to entering the legal arena, legal

ⁱ While in the UK and Europe limited attention has as yet to be paid to the role of ethnicity and culture in private law family proceedings, it is clear that messages relating to the importance of cultural validity in care proceedings and (where possible) the inclusion of family members in decisions relating to the culturally appropriate placement of children are gaining in popularity through the use of Family Group Conference proceedings. (see further, Hunt, 2001; Tapsfield, 2001; Pemberton, 2001; Ince, 2001, etc.)

intervention tended to be limited to ensuring the fairness of informal agreements, “thus taking into account the local realities but keeping in mind the ultimate goal of improving and facilitating access to justice” (Fenton, 1998:8)

The Australian Family Law Reform Act, 1995, in response to the awareness that “laws which stereotype families fail to have meaning for those who fall outside the stereotype, but the impacts of those laws will be discriminatory and consequently unjust” (Nicholson, 1998) has specifically included a requirement to recognise the cultural background of, and where possible, retain links with, “lifestyle, culture and traditions of Aboriginal and Torres Straits Islanders” (Abela & Borg: 1998:9) when making an order for contact or residence. Further guidance refers to the fact that approximately 27 percent of indigenous Fijian women live in ‘de facto’ marriages, but “view themselves as married...[thus] courts are constantly dealing with the dilemmas of tradition and modern values...[and] with culture affecting people’s thinking and ways of behaving, this has somehow to be factored into a formal legal system that dispenses equal justice to all” (Fenton, 1998: 8) .

In addition to explicit discourse on the parenting patterns of certain indigenous ethnic groups, consultation is ongoing regarding the requirement to amend the Australian Family Law Act in the light of the UN Convention on the Rights of the Child 1989. Proposed amendments include references to a “child’s rights to community with other members of his or her group and to enjoy his or her culture” (Abela & Borg: 1998:10) a proposal, which is accepted would have protective implications for a far wider group of non-‘mainstream’ families than at present, and potentially would include Travellers in conflict with ‘settled’ former partners who object to their lifestyle (see empirical chapters).

In Australia, the awareness of the necessity of legally inclusive policies if some sectors of society are not to consider themselves disenfranchised, also extends to legal training on the rights and culture of same-sex families. As a result, “the family court is among the most progressive and inclusive family regimes in the world in terms of accessibility to same sex families” (Millbank, 1998). In addition, and acting as an further check on erroneous or discriminatory assumptions, judges exhibit a

willingness to contemplate the “better use of social science research in the Family Court” (Mullane, 1998) as a way of gauging culturally appropriate decisions.

This openness to change and appreciation of ‘new forms of family’ (Silva & Smart, 1999) contrasts with the more rigidly held assumptions of normative families and standardised Children Act orders exhibited by the British judiciary (Anderson, 1997, Smart & Neale, 1999). Although the Children Act does not preclude members of same sex families applying for contact and residence orders with non-biological children, (Harne & ROW, 1997) it was not until the mid 1990s that lesbians successfully obtained joint parental responsibility through the courts, alongside an increasing recognition of the successful nature of ‘chosen families’ where commitment to parenting exists (Golombok, 1997). Prior to this shift of attitude, not only non-birth parents but also previously married lesbian mothers were frequently denied residence of, and contact with their children, with the courts’ decision being explicitly based upon the perceived negative impacts of parents’ sexual orientation (Steel, 1990; Saffron, 1994). Although anti-discriminatory practice is improving and contemporary family cases are able to rely on judicial precedent, research suggests that lesbian mothers are still subjected to considerable scrutiny by Court Welfare Officers in cases of disputed residence/contact, and in these cases, sexual orientation and the impact upon a child of having a non-heterosexual mother are considered by the court in tandem with more ‘standard’ elements relating to levels of care of and quality of relationship with a child (Harne & ROW, 1997). The insistence of CWOs and courts of focussing on ‘non-normative’ elements of parenting in lesbian custody cases is therefore directly linked to the findings of this thesis where Travellers refer to their interactions with legal personnel as being filtered through expectations of ‘conventionality’ and ‘normative’ family behaviours.

The fact that lawyers representing same sex families in the UK are explicitly advised to rely on certain established techniques and draw upon particular research papers when preparing for family court cases (Barlow, et. al., 1999) implies that in the minds of some experienced legal practitioners, a level playing field does not yet exist in terms of anti-discriminatory practice within the court system. Unlike Australia, no specific guidance exists for lawyers and members of the judiciary in Britain who are involved with minority family cases. Although theoretically the ‘welfare checklist’

(see Chapter 2) provides a benchmark for family court proceedings; for members of some minority groups a suspicion that legal processes are irrelevant to their lives, coupled with anecdotal evidence of discriminatory practices, may lead to a reluctance to access the legal system. Additionally, the lack of clear legal awareness of practice recommendations relating to 'alternative families' can potentially lead to advice from lawyers which emphasises 'downplaying' of cultural identity (a technique reported by almost all of the Travellers who sought legal advice). In this way, the suspicion that members of the legal establishment regard minority families as 'deviant' or their lifestyles as in some sense shameful, may prevent a relationship of trust being developed between legal personnel and clients. Finally, as long as the judicial system fails to officially recognise the value of diverse family forms, lawyers will tend to recommend particular 'winning' techniques, which while potentially 'safer' for clients, fail to challenge preconceptions about particular types of family.

Although evidence relating to minority families 'use' of the legal system is limited, as will be demonstrated, Travellers' experience of family court systems replicates the findings of other studies relating to minority groups' legal marginalisation, and suspicion of court processes. It can therefore be seen that treating Travellers as a 'minority', both in terms of understanding family practices and legal interactions, provides us with greater understanding of their cultural practices relating to family formation, dissolution and post-separation parenting arrangements.

Summary and Conclusions

Family policy and law relating to families, tends to work within a normative paradigm. In contemporary family policy, biological relationships are generally perceived of as 'superior' to social ones, and this genetic supremecism is upheld by laws which emphasise the 'blood relationship' between families, although this bond is often linked to explicit financial responsibilities rather than affective ties.

Although contemporary sociological theories of the family (informed by empirical research) have recognised that the 'nuclear' family is less breaking down than *altering* in ways which both reflect, and drive, changes in society, (Silva & Smart, 1999) all too often policy drives and legal institutions are (to use a famous phrase) "limping along in the wake" of the lives of many citizens.

There is no evidence to suggest that individuals are any less committed to the concept of 'The Family' (Finch & Mason, 1993) and in fact, the vast upsurge in literature and research into family patterns suggests that the institution is merely becoming recognised as more complex than in the past, given the variety of emotional and practical arrangements between relatives, friends and ex-partners. Thus, referring to 'family practices' (Morgan 1996) reflects the reality of post-modern society rather more accurately than talking about 'the (monolithic) family'.

While ideological commitment to notions of the nuclear family may lag behind the legal and practical realities created by changing gender roles, female employment, divorce, non-marital parenting and same sex families, policies which seek to encourage new ways of 'doing family' would appear to be belatedly recognising that the clock cannot be turned back. Current preoccupations with masculinities and fatherhood are therefore perhaps an attempt to alert males to the dramatic potential inherent within new family structures, rather than presenting such changes as necessarily women's gain at the expense of men. However, within these policy initiatives, dual messages are presented, with evidence of the emotional rewards of 'good' parenting coupled with financial and moral punishment for parents who fail to conform to the explicit social engineering. Given the interconnectedness of family, economics, society and the justice system, 'good parenting' however is generally perceived to fall within a narrow range of behaviours. Thus, Caribbean and New Traveller family patterns may still be seen as outside of the norm, although same sex parenting is increasingly gaining in social acceptability, as is evidenced by the explosion of academic texts, and interest in the legal standing of lesbian and gay parents (see Harne & Row, 1997; Pollock & Vaughn, 1987; UK Governmental support for the concept of extending adoption rights to same-sex families 2002; Harrington, 1998; Golombok, 2000; Heinze, 2002; Torrea, 2002).

While some international jurisdictions are beginning to recognise the importance and validity of cultural variation in childrearing practices (most explicitly Australia and New Zealand), in Britain the acceptance of 'non-normative' structures and arrangements is still painfully slow, potentially permitting both explicit and indirect discrimination to occur in family proceedings, and further marginalizing some

socially excluded members of society through increasing their reluctance to engage with the law. The remainder of this thesis therefore sets out to address the potential conflict between legal models of 'good' parenting behaviours and the ethic of ongoing responsibility and care enunciated by Travellers. Before presenting the empirical research findings, it is important to consider the main statutory provision for dealing with family conflict. In the following chapter we therefore examine the workings of the Children Act 1989 as a prelude to introducing the study of New Traveller Families and Post-Separation Parenting Arrangements.

CHAPTER 2

THE LEGAL CONTEXT (THE CHILDREN ACT 1989)

Introduction

The Children Act 1989 (hereinafter the Act) is a groundbreaking piece of legislation which, whilst building on previous statutes aimed at regulating household arrangements and providing protection for minors considered to be in need, for the first time set out to draw the two branches of 'public' and 'private' law concerning children into one regulatory framework. As such, the Act is "undoubtedly the most important single source of children law" (Bainham & Cretney; 1993, p33) encoded under English legislation. Prior to the implementation of the Act on 14th October 1991, a piecemeal growth of statutory provision and case law governed the custody and upbringing of children living with parent(s) (private law), whilst public law provisions dealing with compulsory and voluntary care by local authorities and preventative issues relating to child welfare were controlled by a number of other legislative procedures.

The unusual procedure of implementing the Act completely on one date, as opposed to the usual practice of staggered implementation of various sections of legislation, could be said to be symbolic of the determination of Parliament to firmly impose a new framework for dealing with issues relating to children over the somewhat chaotic plethora of legal procedures heretofore available to the courts. To this end, eight major statutes dealing with Guardianship of Minors, Childcare provisions, Foster care etc. were repealed by the Act, and a further two pieces of legislation were significantly amended. (Bainham & Cretney, 1993; Chapter 2).

The Act derived mainly from two major reviews of the law relating to children which took place in the 1980s. In 1984 the Law Commission undertook an extensive examination of statutory and case law provisions relating to custody and guardianship and published a *Review of Child Law*. A number of working papers on matters relating to Custody; Care, Supervision and Interim Orders in Custody Proceedings; Guardianship; and Wards of Court were published over the next three years and put out to consultation. The *Report on Guardianship and Custody* (No.172, 1988) was

published by the Commission in response to the consultation exercise and in essence formed the basis for the Private Law provisions of the Act (Parts I & II). At the same time, an Interdepartmental Working Party was set up to comprehensively review Public Law proceedings relating to children, and in 1985 the *Review of Child Care Law* was published under the auspices of the working party and the House of Commons Social Services Committee. Around two hundred recommendations were made concerning reform of local authority powers relating to Care proceedings, fostering, children's homes, family support and regulation of childminders. The White Paper published in January 1987, *The Law on Child Care and Family Services* ultimately formed the basis of the remaining Parts III, IV and V of the Act. (Bainham, 1990).

An additional fifteen Schedules to the Act contain significant guidance and regulations relating to the powers contained in the primary legislation. This point is not without controversy as the major use of delegated legislative and enabling powers was criticised extensively during the passage of the Act through Parliament as allowing for secondary regulation to occur at the discretion of the Secretary of State without full debate occurring. Of equal concern to some commentators and Parliamentarians was the Lord Chancellor's position of power in providing guidance and Rules of Court for procedural matters in this area through use of the attached Schedules (Bainham, 1990).

Whilst public law regulations and guidance were to a large extent informed by the *Report of the Enquiry into Child Abuse in Cleveland 1987* (1988 Cm 41 - 'the Butler-Sloss Report') and a number of other enquiries into the deaths of individual children subject to local authority care proceedings; private law matters were equally influenced by the House of Lords decision in *Gillick v West Norfolk & Wisbech Area Health Authority* [1986] 1 AC 112, the leading case on children's ability to make decisions relating to their well-being, subject to sufficient maturity and understanding of the matters at issue (*Gillick* competency). As such, private law cases relating to children (the area with which this study is concerned) are constantly subject to a recognition of the importance of ascertaining and taking into consideration the wishes of children to an extent commensurate with their age and level of understanding.

However, in any Children Act case brought before the court the “child’s welfare shall be the court’s paramount consideration” (Part I, s1) thus ensuring that the child’s wishes are not determinative of any order made.

For the purposes of this thesis, the main area of interest relates to private law proceedings, in particular Section 8 applications ‘Orders with respect to Children in Family Proceedings’ (Part II, s8); although attention will be paid to matters laid out under Part I, in particular, the ‘Welfare of the Child’ (s1); ‘Parental Responsibility’ matters (s2-4) and the ability of the court to order welfare reports on children coming before the court in Family Proceedings (s7). In addition, the powers of the court in relation to the making of s8 orders will be considered (s10-15). Section 9 of the Act specifies that no s8 order other than a residence order (stating with whom a child shall reside) shall be made in respect of a child in the care of the local authority at the time at which the application is heard. Thus, if a child is subject to local authority care proceedings, until such time as these have been determined, no application for any other order available under s8 will be heard, in order to avoid interference by outside parties with the discharge of the local authority’s duties in relation to the child.

General Principles of the Act

The Welfare Principle

Section 1(1) of the Act, restates the main principle of all previously exeunt childcare law, that the ‘welfare of the child’ is ‘paramount’ in any decision taken by a court relating to the upbringing of a child, administration of a child’s property or the application of any income deriving from such property. Originating in the *Guardianship of Infants Act 1925*, and re-enacted by the *Guardianship of Minors Act 1971* the wording of the legislation merely confirms that the court’s sole priority, aided and assisted by the welfare checklist and subsequent secondary guidance, is to arrive at a decision which is in the child’s best interests, taking into account all the circumstances of the case. Once such considerations have been undertaken, any order made, must reflect this principle.

The Non-Intervention Principle

Section 1(5) of the Act encapsulates the basic underlying philosophy of the statute, formulated as a result of the major consultation exercises carried out prior to drafting, and elaborated by the Sections dealing with parental responsibility. That is, that the primary responsibility for children rests with their parents, and only if *it is clear* that parents are not carrying out their role adequately, or are unable to reach a consensus of opinion which reflects the child's best interests, that *court intervention* should occur. Thus, it is only if the court finds that an order is *required* in the best interests of the child that an order may be made.

This particular facet of the Act, unique in English law, emphasises the philosophical commitment to consider the child as focal to the case in question, placing it's well-being above adult disputes. Thus, whereas a typical divorce package prior to the Act would impose a decision on custody, care and control of the child at the same time that the divorce decree was granted (often adding to the heated feelings surrounding the issue, with the concept of 'winning' or 'losing' the child(ren) of the family) the new legislation emphasised that parenthood is a lifelong bond. The non-intervention principle therefore allows divorcing parents (where possible) to reach an amicable agreement, without access to judicial decision making, over where a child should reside and the extent of contact with the non-custodial parent, thus emphasising the role of partnership between parents and their knowledge and good-will in relation to their children's upbringing.

Parental Responsibility (s2-4) is therefore conceived of as an ongoing process, an enduring ethical quality which is not lost by divorce or separation. Similarly, parental responsibility is not lost by the fact that the child is in the care of the local authority, although parties other than the birth parents with care of a child can *also* acquire such responsibility, regardless of their blood relationship with the child subject to the application (see below).

Avoidance of Delay

A further key strut to the legislation is the insistence on avoidance of delay in any matter relating to the child's welfare. Thus, the belief that delayed and drawn-out legal proceedings can only harm a child and be prejudicial to his/her sense of security, is

emphasised by the principle that delaying a decision, or the making of an order, is to be avoided. Section 1(2) therefore instructs the court to proceed as rapidly as possible in all matters relating to the child's best interests. Moreover, s11 of the Act permits the court to draw up a timetable for steps to be taken by parties to the case, Court Welfare Officers etc. to prepare reports on the child and family; make interim orders relating to the child (e.g. interim residence orders until such time as the case has been determined); and impose conditions and directions for the proceedings for a specified or unspecified time. The powers available to the court to ensure that delay is minimised are therefore extremely broad enabling flexibility in dealing with the range of cases likely to be heard.

The 'Welfare Checklist'

Whilst recognising that the child's welfare is paramount in any Children Act proceedings, the law is aware that 'best interests' of a child may not be easily identifiable. As such, Part I, 1(3)(a) of the Act (the 'Welfare Checklist') *requires* the court to take account of a number of factors when considering making, varying or discharging an order under Part IV (Care & Supervision) or *any contested* (private law) *s8 proceedings*. The welfare checklist is as follows, and it is significant that the principle enshrined in *Gillick* is at the head of the specified factors, recognising not only the child's right to have a say in their own future, but also, the *de facto* situation that it is virtually impossible to enforce an order where teenage children flatly refuse to comply with (for example) contact with an absent parent (see obiter in *Re. B* [CA] 1995). The direction to the court to have regard 'in particular' to the list, allows for an implied interpretation that all other circumstances of the case must be considered when deciding whether to make an Order, and in what specific terms. Moreover, the provisions under s7(4) for the ordering of welfare reports on children and families allows for further information on additional matters to be considered by the court when contemplating making any Order.

The Welfare Checklist

- (a) the ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding);
- (b) his physical, emotional and educational needs;

- (c) the likely effect on him of any change in his circumstances;
- (d) his age, sex, background and any characteristics of his which the court considers relevant;
- (e) any harm which he has suffered or is at risk of suffering;
- (f) how capable each of his parents, and any other person in relation to whom the court considers the question to be relevant, is of meeting his needs;
- (g) the range of powers available to the court under the Act in the proceedings in question.

In matters relating to (a), whilst no standard age exists at which the child is considered to be *Gillick* competent to declare their views regarding (for example) residence and contact issues, it is clear that the court is under a duty to seek the child's opinion on the matter under consideration; as even prior to the implementation of the Act, it has been held that failure to accord adequate weight to the strongly held views of an intelligent 12 year old child are grounds for appeal (*M v M (transfer of custody: Appeal)*[1987] 2FLR 146; and see Eekelaar, 1986). However, given the overarching principle of 'welfare' in its broadest sense, the court is at liberty to reject the child's wishes if it considers that the *future welfare* of the child might require compliance with an order (e.g. *Re: M (Contact Supervision)* [1998] 1 FLR), despite the hostility of the child and/or residential parent to the order made (Smart & Neale, 1997; Wallbank, 1998a and b). This matter is considered further below in relation to New Travellers perceptions of Family Law matters and in Section 2 of the thesis.

Checklist factor (c) (the likely effect on a child of change of circumstances), can be held to be of major relevance when considered in conjunction with the injunction to avoid delay in matters relating to children, as this reinforces the *status quo* principle which tends to assume that it is better for a child to remain with a parent who has care at the time when a case comes to court. This principle has led to children being left with one parent where domestic violence has been alleged and the other parent has left the family home, and also to disputes around alleged abduction of children when parental responsibility is possessed by both parents, significantly limiting police powers to return children to the other parent if refusal to return them after contact visits occurs.

Conversely, when combined with factors (e) risk of harm, and (f) needs of the child, there is a potential risk that subjectivity on the part of Court Welfare Officers and the Court could introduce a preference for a particular life-style as in *May v May* [1986] 1 FLR 325 and *Re: P (A Minor, Custody)*(1983) FLR 401; although both of these cases are now somewhat dated. However, (as explored further in this thesis), in practice, the strong principle of on-going parental contact may go some way towards counterbalancing any potential negative preconceptions of a Travelling lifestyle, or contact with a Traveller parent where such cases proceed to court.

The Concept of Parental Responsibility

As referred to above, the concept of Parental Responsibility is critical to an understanding of the Children Act. Prior to the Act, existing legislation made reference to the idea of parental rights and duties, a piecemeal list derived from a number of statutes, and comprising such concepts as the right to determine a child's place of residence, education, religion and reasonable disciplinary boundaries, the right to place a child for adoption and to change a child's name. Duties tended to be less closely defined, but included such notions as the duty to protect, maintain and control a child. As such, parental *possession and ownership* of a minor would appear to have been more central to existing legislation and legal philosophies than concepts of care and children's rights.

Whilst continuing in the tradition of rights and duties, (and perhaps delineating such notions is the only way to reasonably formulate such a nebulous concept as parent-child relations) the Act imposed a new legal framework for defining the role of those adults with legal responsibility for a child, whether a birth parent or another party who acquired such responsibilities. *Parental Responsibility* as defined by s3(1) of the Act is: "all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property", a portmanteau term which in the opinion of the Law Commission provided the best solution to the changing needs and circumstances of families and individual case law. The deliberate use of the term 'responsibilities' was intended to symbolise the "everyday reality of being a parent and to be more in keeping with modern ideas relating to child care. The word 'rights', on the other hand, conjuring up the idea of absolute power, which as far as parent-

child relationships is concerned is not only outdated, but also legally inaccurate” (Allen, 1988, p27).

Primary Parental Responsibility

Section 2(1) of the Act states that Parental Responsibility (hereafter PR) is automatically accorded to parents of a child who were **married** to each other at the time of the child’s birth. Each parent in such circumstances has equal parental responsibility for the said child and may act alone and without the other party in fulfilling their responsibilities. Although parents may take unilateral decisions on a child’s upbringing and while the child is under their care (with the ability to cause significant problems when the child resides with one parent and has contact with the other parent who may have conflicting views on the best way to fulfil such responsibilities), no action taken may override statutory provisions which require both parents’ consent e.g freeing a child for adoption, or in a manner which is incompatible with a court order. Separation, divorce, or even, a care order made in favour of a local authority, do not deprive the natural parents of PR in such cases. It is only where a child is freed for adoption, or attains the age of 18, that natural (married) parents lose PR. Thus PR is at the crux of the issue when applications for s8 Orders (dealt with below) are made to the court.

Unmarried Fathers and PR

Unmarried parents are in a somewhat different position, with the mother being the only party with automatic PR (s2(2)), whether or not both parents are registered on the birth certificate of the child. This situation, currently under review by the Lord Chancellor’s Department (see their discussion paper: *Procedures for the Determination of paternity and the law on Parental Responsibility for Unmarried Fathers* , 1998) reflects the old law, where it was assumed that an unmarried father was signifying his lack of commitment to a child. If, as is expected, the new proposals are carried through, the 58 percent of unmarried fathers who cohabit with the mother at the time of birth, and/or the 78 percent of unwed fathers who jointly register their child’s birth (1996 figures, see Chapter 1), will be placed in the same legal position as married men vis a vis their children, acknowledging changing social mores. However, at present, unmarried father’s have no automatic legal PR, and have

to acquire such responsibilities in one of three ways. This can be done, by marrying the mother of their child [(s2(3))] and then registering the fact of this marriage at the Central Registry, thus legitimising the child under the Legitimacy Act 1976 (s2); or by making a parental responsibility agreement with the other parent [(s4(1))] in the “prescribed form”, witnessed by a magistrate or court official and registered in the “prescribed manner” at the Principal Registry of the Family Division in London under the Parental Responsibility Agreement Regulations 1994. The alternative mechanism for an unmarried father to obtain PR, and the one of most concern in relation to this research, is by applying to the court under s4(1)(a) of the Act. While all other applicants for parental responsibility need to apply for leave of the court to seek a s8 order, (see below) unmarried fathers are in the unique position of having automatic leave to apply for an order under the Act. In practice, applications under s4(1)(a) will only be made where the unmarried parents are unable to reach an agreement in relation to a matter relevant to a s8 application. *Re: S* [CA] 1995, the leading case on non-married fathers’ application for PR, set out the following principles in relation to such applications: that the welfare principle is paramount in any decision relating to the granting of PR; that any consideration of whether to grant PR must include the following factors (a) the degree of commitment shown by the father towards the child (b) the degree of attachment shown existing between the father and child and (c) the father’s reasons for applying for PR; that even if a father is not able to exercise PR at the time it is granted that this is no reason for refusing an order; and that granting PR does not enable a father to interfere in day-to-day care of a child. If he so does, a relevant s8 order restraining his interference may be granted.

A further discrimination applying to unmarried fathers is specified under s4 (3) of the Act, in which it is set out that unmarried fathers are the only class of applicants who may lose PR on application by another party holding PR, or (with leave of the court), on an application by a child of sufficient age and understanding to appreciate the proceedings. However, *Re:P* [1994] (HC) indicates that only in extreme circumstances such as sustained child abuse, will PR be removed from an unmarried father who has acquired such a legal status.

In practice however, the principle of on-going parental contact, and the developing stress on the importance of father-child relationships, has led to a situation where applications for PR from unmarried fathers are in effect granted automatically. This situation has been subject to a considerable amount of negative commentary dealing with the ease with which unmarried fathers with extremely limited contact with a child, or where the relationship with the mother has ended prior to birth, can obtain PR and potentially use it as a method of interfering in the upbringing of the child, or the mother's life and subsequent relationships (Smart & Neale, 1999 commentary on *Re: R (a minor contact)*[1993] 2 FLR 762; Weyland, 1997; Wallbank, 1998). While some criticisms of the proposals to extend PR for unmarried fathers focus on the fact that conception may have occurred during a casual liaison (or even as a result of rape) and that in such circumstances it is unreasonable to allow the father a say in the upbringing of a child, it has been argued by organisations such as Families Need Fathers, that any father who expresses an interest in their child's upbringing should be assumed to warrant the award of PR. Moreover, with the fact of biological parenthood becoming synonymous with financial responsibility under the Child Support Act 1991 (and see s15 Child Support, Pensions & Social Security Act 2000, where joint registration of a child triggers an assumption of parenthood for maintenance purposes), it has been suggested by a number of commentators (FNF, 1998; Pickford, 1999; Advisory Board on Family Law, 1998) that it is unsustainably discriminatory to treat married and unmarried fathers differentially.

Third Parties and PR

It is possible for third parties, other than parents to obtain PR, and when this occurs, parents and any other party with extant PR do not lose their legal status vis a vis the child. Therefore it is theoretically possible for a number of persons to hold PR simultaneously in respect of the same child. The main ways in which third parties can obtain PR are through the making of a Residence Order (see below under s8 orders) under s10 of the Act, or through a Care Order under s31 or Emergency Protection Order under s44 (neither of which matters are dealt with in this thesis). In addition, an adoption order will automatically confer PR on the adoptive parent while removing PR from the natural parents. The final way in which PR can be obtained by a non-parent is through the use of Guardianship procedures under s5-6 of the Act. Under

Guardianship provisions in the Act, PR only comes into force on the death of the appointing parent, who has specified the Guardian of the child in the form specified. A Guardianship appointment may be revoked by the appointer or the Courts, and in cases where one parent with PR has appointed a Guardian, and on the death of the appointer the other (non-resident) parent with PR disputes the arrangements for the child's upbringing it is possible for the court to overrule the wishes of the deceased parent and place the child with an alternative Guardian.

Section 8 Orders

The orders available to the court in connection with a child's upbringing are enacted in Part II of the Act. Sections 8-15 deal with various matters relating to the making of such orders, available to both parents and non-parents. Known collectively as Section 8 Orders, the four types of Order were designed to clarify and supercede the various forms of custody and access orders previously available. The combination of the four orders create a flexible body of law available for dealing with a wide variety of issues relating to children and as such are enormously useful tools for dealing with complex family situations, when coupled with the Welfare Checklist which allows for investigation into a range of matters of concern when considering the child's 'best interests'.

The four types of order available under s8 powers are as follows:

Residence Orders (RO): specified under s8(1) as an "order settling the arrangements to be made as to the person with whom a child is to live" these orders are usually applied for by separating parents when the parties are in dispute over where, and with whom the child shall live. In cases where (for example) an unmarried mother as the only party with PR is in dispute with the father over PR and contact, it is sometimes considered a sensible legal action to apply for a residence order in her favour as a way of ensuring that all such issues are settled prior to contact arrangements being made. In particular, this can be beneficial if the mother is concerned that the father may not return the child after contact, as if he obtains PR and she does not hold a residence order in her favour, there is no legal power to ensure the return of the child to her custody after contact visits.

Under s11(7) the court can further order that certain conditions are imposed on residence or contact orders to ensure that no breach of the order occurs, such as removal of the child to another jurisdiction. Enforcement of breach of residence arrangements are governed by the powers laid out in s14 of the Act, wherein Magistrates can require the return of a child to the party holding the residence order. Further, if a residence order is granted jointly to two parties (as may occur in a split residence situation where a child lives for alternate weeks or months, etc. with each parent), under s 11(4) the court may order precise timelimits during which the child resides with each party.

Contact Orders (CO): are described in s8(1) of the Act as an “order requiring the person with whom a child lives, or is to live, to allow the child to visit or stay with the person named in the order, or for that person and the child otherwise to have contact with each other” . Whilst a typical contact order will enable to child to visit the non-resident parent for alternate weekends and perhaps have staying contact over school holidays, *indirect contact* by birthday cards and telephone calls may be granted in certain circumstances. Indirect contact is a rarely used procedure, and then usually only granted in cases of extreme abuse, violence or exacerbated risk factors towards the child. Given the presumption of contact with absent parents, even in cases where extreme violence has occurred towards the mother (*A v A* [1997] Fam.Law 62) or where the children are ‘violently opposed’ to contact with their father *F v F* (1996) (CA) 13/5/98 (unreported) this particular area of the Act is riven with contentious cases.

In circumstances where the residential parent is considered to be at extreme risk of violence from the other partner, or the non-residential parent is not considered able to care for the child adequately during unsupervised contact sessions (*Re: M (Contact: Supervision)* [1988] 1 FLR), but contact has been ordered on the assumption that “it is almost always in the interest of the child.... to have contact with the parent with whom the child is not living” (per Wall.J in *Re: P (Contact:Supervision)* [1996] 2 FLR 314) contact centres where parents and children may meet under the supervision of experienced workers are usually regarded as the best solution (see Mitchell, 2001).

In some cases where the residential parent alleges significant fear as to the effect of contact on the children, or on herself (*Re F: (Minors: Mother's Anxiety)* [1993] 2 FLR), contact orders are breached, and a significant body of case law around the issue of "implacable hostility" of the mother to contact is developing (see Gerlis, 1998; 2002). The strength of the presumption of contact, coupled with the court's reluctance to appear to allow 'flouting of orders' has led in some cases to the imprisonment of the parent who refuses to cooperate with a s8 contact order. (*Re: X (A minor: contact: committal)* [1993] Fam Law 246; *A v N (Committal: refusal of contact)* [1997] 1 FLR 533).

In essence, when a contact order is made, the residential parent is placed under a *positive duty* to facilitate contact between the child and named person, regardless of their feelings in the matter. When a person with PR is exercising contact rights with the named child, while they must not act in any manner which breaches an RO or other order in force, their PR remains inviolable, and they are in full control of the child. Conversely, a contact order can be used to impose restrictions on a child having contact with a named person (*Nottinghamshire County Council v P* (1993) CA), e.g. where a non-resident parent seeks an order ensuring that a child does not have contact with (for example) a mother's new partner.

Prohibited Steps Orders (PSO): Generally, these orders are far less commonly applied for under s8 of the Act than ROs, and COs (but see empirical chapters for further discussion on their use in Traveller cases). PSOs are defined as follows: "an order that no step which could be taken by a parent in meeting his parental responsibility for a child, and which is of a kind specified in the order, shall be taken by any person without the consent of the court" (s8(1)). As such, this prohibitive order provides a useful tool for exercising control over a person with PR who may act in opposition to the residential parent's considerations of the child's best interests. Subjected to court control and monitored by the welfare checklist, this type of *exclusively negative* order enables practical protection for the child subject to the application, and can be used (for example) to prohibit a child from being removed from the jurisdiction if there is a fear that abduction may occur, or to ensure that the

non-resident parent does not take a child to a place, or into contact with, people regarded as detrimental to the child's upbringing or safety. PSOs and Specific Issue Orders (considered below) however, may not be used to circumvent the provisions contained in the main (residence and contact) orders (s9(5)(a)).

Specific Issue Orders (SIO): are defined under s8(1) as "an order giving directions for the purpose of determining a specific question which has arisen, or which may arise, in connection with any aspect of parental responsibility for a child". This particular order is closely related to the PSO, although the major difference between these two orders is that the SIO can regulate a particular aspect of a child's upbringing by direct reference to the court to determine a matter at issue. SIOs have been used to direct residential parents in matters relating to the religion in which a child shall be brought up, the type of education appropriate to a child, and in *Re: F* (1994) to permit a father's solicitor access to interview children who were allegedly witnesses to an assault alleged by the mother (holder of sole PR) against the father. Although none of the interviewees within the current study have had experience of SIOs, these orders have potential relevance in Traveller cases, for example where disputes arise over home versus school education, or in relation to one parent's desire to remove the children to another country for the purposes of seasonal working.

Who may apply for a s8 Order?

Automatic leave to apply for s8 orders (parents)

All married parents have automatic rights to apply to the court for a s8 order in respect of their natural children. Similarly, unmarried fathers have an automatic right to apply for any s8 order, and if they are not already in possession of PR at the time such an order is granted, the court may grant PR to the applicant. Moreover if a residence order is granted in respect of any child to an unmarried father or Guardian, PR will automatically be ordered to that person (s12).

No leave of the court required

In certain circumstances non-parents who wish to apply for a s8 order are able to apply for an order directly, without approaching the court for permission to proceed.

Persons in the following categories, are considered to have a valid reason for seeking such an order without further investigations into their circumstances:

- (a) a person who already holds a residence order (s10(4)(b) e.g. a foster parent caring for a child.
- (b) a party to a marriage (whether intact or separated/divorced) has the right to apply for a residence or contact order with a 'child of the family' e.g a child treated as though it were the blood child of both parties to the marriage.(s10(5)(a)
- (c) a person who has resided with a child for at least the previous three years (e.g. non-married step-parent, friend sharing a home) (s10(5)(b). While the three year period need not be continuous, it must not have begun longer than five years prior to the application, or ended longer ago than three months prior to the application, in an attempt to avoid disruption to a child by a barely known party applying for contact or residence.
- (d) any person who has the consent of the local authority (if the child is cared for an authority) e.g. relatives of a child in care, may apply for a contact order. An individual who has the permission of all persons with PR for that child. (s10(5)(c) is entitled to apply for a residence or contact order (e.g friend/relative seeking a residence order with permission from parents who cannot care for the child).

Although the procedural bar to an application is lifted in the above cases, any order made is still at the discretion of the court, who may refuse to make an order in such terms if it considers that the welfare principle is not fully made out.

Leave of the court required

Any other party who desires to obtain a s8 order in respect of a child must first apply for leave of the court to proceed with the application (s10(2)(b). This hold on proceedings is designed to limit interference in a child's upbringing by a party who may not have the child's welfare as an overriding consideration. Section 10(9) specifies that in deciding whether to grant leave to apply for an order, the court shall consider the following matters:

- (a) the nature of the proposed application
- (b) the applicant's connection with the child
- (c) any risk there might be of the application disrupting the child's life to such an extent that he might be harmed by it
- (d) where the child is being looked after by a local authority, the authority's plans for the child's future and the wishes and feelings of the child's parents.

While this provision allows for relatives such as grandparents and separated non-married step-parents to continue their relationship with a child they might otherwise lose contact with, case law has further developed the criteria required for a successful application for leave to apply. *Re:M* (CA) (1995) set down that the following grounds must be successfully met prior to the applicant moving onto the next stage of the procedure.

- (a) if the application is frivolous, vexatious or any other abuse of the due process of the law it will fail.
- (b) the application will be dismissed if the applicant does not show that there is a real likelihood of success in the application.
- (c) the applicant must convince the court that there is a real issue to be considered, and present a good case for the application having been made.

A final category of applicant is that of the child itself, who, if the court considers s/he has sufficient age and understanding to apply for an order (e.g. a 15 year old girl who seeks a residence order in favour of her boyfriend's family when her parents' divorce acrimoniously) may under s10(8) consider the child's application for leave to apply. This section of the Act, strengthens the acknowledgement of the importance of the child's wishes and feelings as outlined in the welfare checklist, and moreover is drafted in terms of *Gillick* competence, as no particular age is specified from which time a child may apply for an order.

Use of Welfare Reports in s8 Applications

Section 7(1) of the Act provides the court with total discretion to decide whether Welfare Reports are needed in respect of any child subject to an application. Where

the proceedings are in respect of private law matters, the appropriate person to undertake such a report is a probation officer in their role of Family Court Welfare Officer, who are under a duty to comply with the direction, (s7(5)) and within the time limit specified by the court in the interest of avoidance of delay (s11). (However, note, as of 2001, the Children and Family Court Advisory and Support Service CAFCASS has taken over the role of overseeing all welfare reports made, using essentially the same personnel as previously) While the court may also request a report from an independent agency concerned with the child or family, there is no duty for such an agency to provide a report. Welfare reports may be made in writing, or presented orally as the court requests.

Although welfare reports are not usually requested in uncontested cases, the court has total authority to order such a report as it sees fit, and may request information on any subject considered relevant to the welfare of the child. In addition, the usual rules of evidence are relaxed in welfare report requests, and therefore hearsay evidence may be accepted, which inevitably raises the issue of potential subjectivity on the part of a reporting officer if matters relating to life-style choice are part of the report (see empirical chapters for further discussion).

It is common practice to interview all parties to the case, their cohabitees where such exist, and often grandparents, teachers, etc. who may have knowledge of the child's circumstances which prove relevant to the court's decision. Although the welfare report will *often prove critical* to the decision reached by the judge in any application, the Act does not bind the court to follow any recommendations made by a CWO, although reasons must be stated for making an order in terms other than those recommended by the Officer.

The court must receive a copy of the welfare report 14 days prior to the relevant hearing and all parties will then be served with the report 'as soon as is practicable' allowing them the option of challenging any statement made by the CWO. The Home Office issued a set of *National Standards for Probation Service Family Court Welfare Work* in 1994, setting out guidelines on directions appointments, mediation and report formats, and in these standards, it is recommended that it is good practice

to provide a full report within ten weeks of the receipt of papers from the court office (Allen, 1998).

Relevant Additional Powers within the Act

Two further sections of the Act are of particular note in private law proceedings, and while not at issue in the cases analysed for the current research, a potential exists for conflict with these powers in NT family law cases. Section 13(1) of the Act specifies that where a Residence Order is in force no person may (a) cause the child to be known by a new surname and (b) remove the child from the United Kingdom for a period of longer than one month without either the written permission of all parties holding PR, or the court.

A body of case law relating to the change of surname provisions has arisen over the past few years, and it is now fairly certain that regardless of a mother's (re)marriage, or lone parenthood and desire to have her children known by her surname, that once a child has been given a particular surname, it is only in the most extreme circumstances that the court will give permission for children to be known by any other name. In *Re: B (1995)* the Court of Appeal held that even if teenage children allegedly wished to take their mother's surname "a father, while he lives, is always of the present". Thus, while the children could request that they be known by one name, their mother was prohibited from altering any official records. It is arguable that such powers can potentially cause significant interference in a residential parent's life, particularly if the relationship with the father was of an extremely short duration, or her children/new partner feel strongly that they wish to share a name.

In circumstances where relationships are usually between unmarried couples, may be of fairly short duration, or involve a potentially high chance of repartnering, (such as are found among many Traveller families) it is possible that children may be more commonly known by their mother's surnames. It is unlikely that much awareness exists within the Travelling community of the power within the Act to enforce use of a particular surname, and if a child has been jointly registered at birth using the father's surname, this may cause significant conflict (and indeed practical problems) if

a mother later wishes her children to be known by her name or that of a new partner and any other siblings .

Section 13(1)(b) (although not at issue in cases analysed) also has the potential to cause significant problems for Traveller families who are in dispute and have resorted to the law. Although this provision is only relevant where an RO is in existence, the prohibition on removal of a child from the jurisdiction can cause substantial hardship to a nomadic family if (for example) the mother of the child possesses an RO and wishes to work abroad, and a settled ex-partner refuses to grant permission for her to take the children with her. In effect, such prohibitions on travel can create a situation where the residential parent is forced to give up their Travelling lifestyle if the other parent or some other party with PR wishes to enforce such provisions. Use of these clauses may prove particularly relevant if the residential parent has begun travelling on ending a relationship with a settled partner, or a non-residential parent wishes to take a child travelling for some period of time and disagreements ensue with the other party.

The final section of the Act which was initially identified as being of interest to this study, ultimately proved irrelevant to the analysis of cases. However, details of the provisions are included below, as a potential exists for future research into the prevalence of use of this order in 'non-normative' family cases.

Section 16 of the Act provides for the making of **Family Assistance Orders**. Orders of this type are made under the inherent jurisdiction of the court, and can be made in connection with any child who is the subject of an application, whether or not any other order is granted. A FAO requires that a probation officer (CWO) or local authority officer (Social Worker) "advise, assist and (where appropriate) befriend" any parent or guardian of a child (s16(1)(b)); "or any person with whom the child lives or in whose favour a contact order is in force, or the child himself" (s16(2) Other provisions under s16 require that before an order of this type can be made, that the court must be satisfied that the circumstances of the case are exceptional, and that consent is granted by all persons named in the order (s16(3).

FAOs usually run for a six month period and may direct that the named officer is kept informed of any named parties addresses, and is able to visit them as required. In addition, where a s8 order is in force in connection with a child named in the order, the officer may refer to the court the question as to whether the s8 order should be discharged or varied. (s16(6)). In effect therefore, this section of the Act creates a supervisory role for the probation service, enabling them to ensure compliance with any instructions issued by the court or the individual officer.

Although theoretically FAOs are voluntary, and are ordered where no grounds exist for a care or supervision order, in practice, it would appear that such orders are made where a CWO expresses concerns over a child's wellbeing. As such, parties to such orders could potentially regard such orders as an unwarrantable interference with their mode of life, particularly if concerns centre around matters relating to culture, such as Travelling. In such circumstances a very real risk exists that compliance with an order is undertaken merely to avoid other proceedings being taken, or s8 orders being varied. Moreover, the requirement to specify an address at which parties reside can potentially be regarded as discriminatory towards nomadic families, requiring settlement within a particular area for the period over which the FAO runs.

Interestingly, the provision for consent by parties to the case, was referred to by more than one CWO interviewed for the supplementary vignettes (Appendix 4), as precluding the use of such orders in Traveller cases, as inherent difficulties would exist over making such an order where families are nomadic. However, as is commented upon in Appendix 4, the CWOs interviewed were a small, self-selected group with experience of Traveller families and thus are perhaps less likely to suggest the making of an FAO to the court, as they would be aware of the potential difficulties involved in providing continuity of care to a family. Moreover this particular sample of CWOs indicated an awareness of the risks of imposing 'mainstream' cultural expectations on Traveller families.

Other Issues

All section 8 orders terminate (except in exceptional circumstances) when a child attains the age of 16, and may always be discharged or varied by the court. On

disposing of any s8 order a court may order that no further applications be made in respect of a child, except with the court's express permission. This order is particularly likely to occur where it is considered that a party is using their ability to make s8 applications as a way of vindictively harassing the other parent (*Re:T* (CA) 1992). Once a child has attained the age of sixteen no s8 order can be made except in exceptional circumstances (s9(7)) in recognition of a child's increasing autonomy under the *Gillick* ruling.

New Travellers and the problematic of use of the Children Act

Although the following discussion is presented in greatly extended form in later chapters, at this stage it is worth highlighting some elements of the research (and the impact of the Act's drafting and interpretation on Traveller families), which will be considered in greater detail in later sections of this thesis.

Traveller family behaviours

- Both the pilot study and the current research are suggestive of the fact that formal marriage among Travellers is the exception rather than the norm. These findings are further supported by references to family formation found in (non-academic) works on this group (Lowe & Shaw; 1993; Earle et. al., 1994). As such the overwhelming majority of parents interviewed were engaging with the Children Act from the position of unmarried parents, meaning that only the mother has automatic PR, and thus fathers' position is somewhat more precarious in legal terms.
- Both the main doctoral research and the pilot study, found that a significant number of female Travellers interviewed were, or had been, lone parents at some time. In addition, evidence exists of a fairly high degree of serial monogamy and reconstituted families, often including children who retain contact with both parents, frequently, moving between households for 'block contact' visits lasting for several weeks at a time (see empirical chapters). Thus, standard contact orders are unlikely to be complied with, as the inherent difficulties involved in a nomadic family being resident at a particular location for alternate weekends, (or indeed travelling to meet the other parent on a

fortnightly basis) may well prove prohibitive, particularly if the parents live some distance from each other.

- Evidence exists of significant peer pressure on Travellers to ensure that contact occurs between children and parents where possible (Greenfields, 1999; Earle et. al., 1994; Webster, 1999). In relation to this finding, many interviewees indicated their support for a 'green' philosophy, often associated with family-friendliness, which in many ways also pre-supposes an ethic of 'non-conflict'. Moreover, as a marginalised group the retention of an appearance of outward cohesiveness may well be of significance for Travellers, leading to a tendency to down-play any internal conflicts or breaches of 'public morality'. When the above findings are coupled with the fact that both the pilot study and the main research found a markedly high degree of commitment both philosophically, and sometimes through complex practical arrangements, to the concept of on-going care and maintenance of relationships with children who were no longer resident with both parents, the likelihood of resorting to formal legal proceedings is low among this group.
- Where possible, New Traveller parents attempt to negotiate contact and residence arrangements for their children, either on an individual basis, or through the mediation of other concerned adults rather than resorting to formalized legal proceedings. In cases where both parents remain nomadic, a preoccupation with 'reputation' among (what is in essence) a closed community, may assist in these negotiations; as 'the grapevine' will generally inform (and perhaps amplify in the retelling) the community of any breach of socially accepted behaviour towards children or ex-partners. Thus potentially problematic areas of contact and residence arrangements are to a large extent in the public arena within this community, in contrast to the 'client-centred', confidentiality oriented methods practiced by CWOs and legal personnel.
- Although Travellers tend to consider themselves tolerant of the behaviour of others, given the general ideal of commitment to children and 'community' found among this group, (Webster, 1999; Webster & Millar, 2001; and the

findings of the pilot study), it is likely that an individual who gains a reputation for being a bad parent will be regarded with some suspicion, and indeed such a reputation may limit their capacity to form new relationships with people who have children resident with, or spending a considerable amount of time with them.

Legal conundrums

Thus, in themselves, these key points on family practices, would tend to presuppose that a concern with formal *legal* commitments are unlikely to be a common response among separating parents. As such, resort to family law is generally seen as a defensive procedure rather than an automatic reaction to parental separation, at least when both adult parties remain nomadic (see Chapters, 5 and 6). However, if one parent settles into a house, (perhaps with the children) or a previously settled parent becomes nomadic after separation, it is more likely that conflict leading to court procedures may occur. For legal officials, trained in the expectation of certain standardised situations, and responses from clients with whom they have contact, it is inevitable that particular aspects of family law will create an uneasy mismatch between Traveller practices and 'mainstream' understanding of conflictual family situations. A brief summary of areas of potential cultural misunderstanding are therefore presented below, and revisited in detail in subsequent empirical chapters.

- Non-resident fathers' tendency to lose contact with children, (estimated at 40 percent within three years of separation in the 'mainstream' population (Bradshaw & Millar, 1991)), although unusual in the Traveller context, tends to be exaggerated by the number of 'housed' mothers with residence, who refuse contact between children and their father as part of a complete break with their previous relationship and lifestyle. Similarly, findings suggest that settled fathers who have had a relationship with a Traveller woman are more likely to seek residence of a child on the grounds that Travelling provides too unsettled a lifestyle for a child. In both of the above situations, concerns around access to education, health, etc. are of considerable importance where cases proceed to court.

- An additional point of note concerns NTs attitudes towards the law. If, Travellers can be perceived of as a marginalised group who attempt to maintain a sense of social cohesion in a potentially hostile world, it is likely that the limits of their contact with the legal system (at least since commencing Travelling) are bounded by eviction procedures. Thus the use of the law may be seen as a generally 'attacking' process. Whilst 'defensive' resort to the law may be used to seek a stay of eviction on sites, or as a way of obtaining planning permission, legal interactions are likely to be avoided where possible. This is particularly so when problems associated with eviction, moving for work related reasons, and general survival issues such as access to wood and water, tend to place the legal sphere as outside and beyond relevance for the great majority of Travellers unless they are forced to confront the law.
- Findings from both the pilot and main studies, (supported by anecdotal evidence from non-resident Travelling fathers), indicates that men who are refused contact with children tend to consider, that by virtue of being male, nomadic and (generally) unmarried, they are outside of the law in terms of retaining a relationship with their children, even where they evidence commitment to their families. The pilot study for the this thesis, when looking at Travellers' perceptions of engagement with the 'settled population' found that all of the sample were aware of negative stereotyping on nomads, and virtually all had experienced hostility from relatives or settled residents near to sites. Such experiences, coupled with potential problems in obtaining Legal Aid, or remaining in a locality to await court hearing dates or solicitor's appointments, may well reinforce Travellers sense of powerlessness or general futility in attempting to access the legal process if disputes arise over children.

Travellers & the Children Act

Despite the above discussion, some Travellers do proceed as far as court proceedings over their children, as is evidenced by the empirical chapters. In preparation for a consideration of the detailed findings which follow in Section Two, the following

summary highlights a number of areas of interest in relation to aspects of the Children Act

- **Obtaining PR for unmarried fathers:** given findings which indicate that it is unusual for NTs to formally marry, obtaining PR can prove to be an area of particular concern. Despite the legal presumption that contact with a child is desirable, and the concomitant presumption of awarding PR to fathers who seek contact, court perceptions of nomadic lifestyles and perceived risk factors to the child in question, (per: the Welfare Checklist) may limit fathers' ability to obtain any order, and thus PR.
- **Avoidance of delay:** the fact that Travellers are liable to rapid removal from an area and thus may find it problematic to keep solicitors and Court Welfare Officers appointments, can prove prejudicial to Travellers involved in court proceedings. In addition, evictions, delays in obtaining post, or telephone contact with court officials and the other party etc. may significantly lengthen proceedings.
- **Welfare Checklist:** As discussed above, significant room exists for court and CWOs subjective interpretations of the welfare checklist. In particular, findings indicate that concerns may be expressed over the ability of a nomadic Traveller to act in the child's 'best interests' in matters related to (b) physical, emotional and educational needs; (e) risk of harm and (f) capability of parent in meeting the child's needs. Although the child's wishes and feelings (a) are relevant to any decision taken, it is within the power of the court to decide that the child's needs may best be met by residing in a settled home, where access to educational establishments, social services support, etc. are available. Moreover, given popular perceptions of Traveller sites and lifestyles, it is arguable that a child can be 'protected' from anti-social behaviour or contact with potential drug-use if orders distance a child from a nomadic environment.
- **Residence orders:** It is arguable, that for the reasons outlined under the welfare checklist, a settled party may be more likely than a Travelling parent to obtain an

RO in disputed cases. Similarly, should a split order be made detailing how and when a child should live with one party, it would be almost impossible to facilitate such an order, if one parent remains nomadic, or wishes to travel seasonally.

- **Contact orders:** Issues as for R.Os. In addition, concerns may arise surrounding how and where contact should take place; the extent of contact which is feasible when one parent is nomadic, or limitations on a nomadic resident parent's freedom of movement if they need to be present at a particular location to allow contact to occur with a settled relative. In addition, contact orders can be ordered in terms which specify that a parent does not allow a child contact with named persons, which may cause significant problems if the non-resident parent is on a site, or travelling to festivals where such persons may be present.
- **Prohibited Steps Orders:** As is discussed in some detail in the empirical chapters, this type of order is of particular concern in Traveller cases, as orders (not infrequently) appear to be made, which specify that a parent does not take a child on site or to festivals, or that the resident parent must remain in the jurisdiction with a child rather than undertake seasonal travelling abroad or at home.
- In a similar manner, **Specific Issue Orders** (although not used in any cases analysed) possess the potential to be used as a double edged sword, as either parent can apply to the court for clarification on issues such as home education or school attendance (which may prove problematic for a home educating family who wish to remain nomadic).
- **Other matters:** given that family relationships tend to be fluid amongst New Travellers, (see subsequent discussions in empirical chapters on 'family of choice'), the potential exists for non-parents to seek a contact order with a child. While such actions are unlikely to occur in the nomadic context (see above), this facility under the Act, offers a potentially positive means of retaining contact with a child who may have become settled. While approaching the courts for such an order is against the general philosophical trend identified within this group (see

pilot study and empirical chapters), the potential exists for friends of the child, or an **unmarried step-parent** who has lived with a child for less than three years, to seek contact.

In addition should the death of the natural parent with PR lead to a child being placed outside of the community, it is possible for a step-parent or family friend to challenge the placement of a child by seeking a **Guardianship** order. Although procedural bars exist in such circumstances, (again raising the issue of potential subjective evaluations by the court and CWOs), the ability to apply for such an order does afford recognition of non-normative family patterns and bonds of affection, such as are identified among the Traveller community. Finally, as is discussed in chapter seven of the thesis, older NT children are granted a fairly wide degree of autonomy over selection of their place of residence. Although rarely successfully used, The Children Act also provides a mechanism for a child to enforce such an arrangement, enabling a **child with Gillick competence** to apply for an RO to live with a particular named person, or a contact order to enable familial type relationships to endure. Thus, a child has access to a statutory mechanism for *legally* selecting a 'family of choice' if CWOs and the court will countenance such an option, in the light of the welfare checklist.

- **Welfare Reports:** Potential concerns exist around the subjective nature of welfare reports and the acceptance of hearsay evidence in Children Act cases. Given the widely perceived negative stereotyping of Travellers (Murdoch, 1994 and the pilot study for this research) nomadic parents reported a widespread belief that their family circumstances will be regarded in a prejudicial light, *regardless* of the perceptions of the Officer involved in preparation of the case. In addition, findings relating to CWOs and Social Workers general lack of experience and training in Traveller culture and family structures were highlighted by parents as leading to conflicting viewpoints. As such, a potential exists for lack of cooperation from NTs who feel threatened by proceedings. In such circumstances cases of hardship may therefore arise when normative family paradigms are in conflict with the sometimes unconventional household and group relationships found among the Traveller population.

Summary and Conclusions

In this chapter we have considered the fundamental changes in attitude towards family law over the past two decades, and the impact of the Children Act 1989 in its role as a cutting-edge piece of legislation. In many ways the Act predated current pre-occupations with 'citizenship' by introducing a 'rights-based' approach to family matters. However, it is also clear from an examination of key cases that despite the all-encompassing nature of the 'welfare checklist' and the supposed protection afforded to a child of having a Court Welfare Officer appointed to undertake investigations, the potential exists for officers of the court to impose a 'normative' pattern of post-separation family relationships at the cost of negating a child's (or primary carer's) wishes and experiences (for example, *Re: M (Contact Supervision)* [1998] 1 FLR).

While to a large extent this chapter has dealt less with issues of legal philosophy than with clarifying the legal structures and practicalities of using the law, it is clear that for Travellers who engage with the family court system (and indeed for their advisors), significant areas of concern exist around the possibility that legal personnel's subjective assessments will lead to a particular set of outcomes when ascertaining what is in the 'best interests' of a child. While potentially the structure and philosophy underlying the Children Act offer a flexible tool for deconstructing family conflict, if major cultural clashes occur in defining the 'welfare of the child' (which may be as simple as a CWO's lack of comprehension of the importance of attendance at particular cultural events), considerable potential exists for either directly or indirectly limiting a child's involvement in a parent's 'alternative' mode of life.

Thus (although not dealt with in this thesis) it is clear that interpretations of clauses within the Children Act may also impact on Human Rights issues (see European Convention on Human Rights, Human Rights Act 1998 (HRA); and Roberts & Plange, 1998). As such, a need exists for future research into Travellers' rights and the impact of the Human Rights Act on private and family life (Article 8), choice in education (Article 26), religious freedom, (Article 9), freedom of expression and

opinion (Article 10) and perhaps most importantly, Article 14 which prohibits discrimination on a number of grounds, including membership of a minority group, religious belief, ethnicity and sexual orientation.

Having used this chapter to unpack the Children Act 1989 and examine the various provisions and routes into private law proceedings; it has also been possible to present a summary of particularly problematic aspects of the Act, enabling us to consider the implications of legal precedent and practice for Travellers engaged in parenting disputes. Thus, by way of an introduction to the narratives of engagement with the family court system, the reader has been presented with a knowledge of legal matters which to a large extent are denied to the Traveller parents who participated in this research. As such it is possible to consider both the constraints of the legal system and the impact of discrimination (or parental *fear* of discrimination) on the children whose parents are engaged in post-separation parenting.

However, before presenting the empirical chapters which detail the parenting choices made by informants (and indeed the constraints imposed upon them by legal intervention) it is necessary to consider the research methodologies used in undertaking an exploration of the above subject matter. Selection of particular methodologies inevitably impacts upon the validity and reliability of findings, and may also have 'hidden' impacts such as ethical dilemmas and research 'costs' both to the subject and the investigator (Lee & Renzetti, 1993). Thus in the following chapter, (which acts as a precursor to the main study), we explore the history and design of this research project, fieldwork dilemmas and implications of analytical techniques in an attempt to further illuminate the complexities of working with minority groups on 'sensitive topics' (Sieber & Stanley, 1988; Fielding, 1993; Lee & Renzetti, 1993).

CHAPTER 3

RESEARCH METHODOLOGY

Introduction

The research forming the subject matter of this thesis was carried out over a period of three years. In the first year, training was received in a variety of research methodologies and as part of the conditions of reading for an MSc in Social Policy Research (compulsory for first year PhD students) I was required to undertake two projects, one a statistical analysis and one of a qualitative nature. Accordingly, the qualitative fieldwork carried out in Year One, (discussed below) acted both as a pilot for the current study, and formed one of two dissertation reports for the MSc.

As a result of this 'fast-track' research training, in the second year of the course I was able to build extensively upon the experiences of the earlier fieldwork period and design research tools which best enabled me to carry out interviews on such deeply personal subjects as family relationships (Lee & Renzetti, 1993; Edwards, 1993), sexual behaviour (Sieber, 1993; Booth, 1989) and actions which are potentially illegal (Adler & Adler, 1993; Fielding, 1993). While all of these topics are without doubt 'sensitive research areas' (Sieber and Stanley, 1988; Lee & Renzetti, 1993; Caplan, 1982) on the evidence from the pilot study they were likely to prove of critical importance to the main research project. However it was clear that questioning on these areas might prove problematic for informants, potentially triggering significant emotional distress (Bergen, 1993; Cook & Fonow, 1984; Clark & Haldane, 1990) or more practical consequences such as a risk of public exposure (Sagarin, 1973; Hass & Shaffir, 1980) or censure (Fine, 1987; Adler & Adler, 1993) should an interviewee prove identifiable in the published research. Thus an additional element in the equation was the need to be able to reassure interview subjects of the ways in which the data would be presented and used (Edwards, 1993; Brannen, 1988), and also to set their minds at rest regarding any potential for researcher mishandling of information. The pilot study was therefore of critical importance in terms of refining methodological techniques and highlighting ethical issues, as well as assisting in defining the focus of the main doctoral research.

The pilot project, while closely related to the main research topic, consisted of a discrete study on “the impact on family relationships of going ‘on the road’”. The aims of the pilot were to test access to the sample and to highlight particular areas of potential conflict between nomadic parents, their natal families and former partners. As such, there was no intention to cover the *same* topics as are presented in this thesis, although some inevitable overlap has occurred. In brief, the pilot study consisted of a period of participant observation, (totalling three months) during which time sixteen in-depth interviews with Traveller parents, (ten female and six male) were undertaken. Interviews and observations were carried out at four locations (one licensed site, one ‘gathering’, and two unauthorised sites), and Travellers selected for interview comprised a purposive sample of informants with a range of ages (from 20 to 38 years) and Travelling histories which varied from two and a half years to over twenty years. All informants were parents, and interviewees comprised both intact families and lone parents. In addition, some Travellers were not resident with their children, and one woman co-parented her partner’s daughter, without (yet) having given birth herself.

Of particular interest (and potentially forming the basis for future research) was the finding that a quarter of the sample had some form of Traditional Traveller or Romani/Gypsy ancestry, although in two cases the informant was unaware of this fact until the ‘dark secret’ was revealed by parents or grandparents some years after the interviewee had commenced Travelling. A further two informants were of mixed English/European ancestry, and during interview, revealed that prior to becoming nomadic they had felt ‘rootless’ in Britain, opening up a number of lines of enquiry in relation to the nature of identity and ‘community’, factors which form an important aspect of the investigation reported upon in this thesis. Thus, while the earlier work was simply designed as a pilot to consider the feasibility of the current empirical research, it has also proved invaluable as a tool for evaluation and selection of subject matter and methodological techniques used during the doctoral research.

It was decided at a very early stage of the research programme (while devising the pilot study) that structured interview techniques would not be appropriate for dealing with this particular subject group (Graham, 1984) as their marginalized status could lead to suspicion and hostility towards an interviewer who appeared to be asking very

specific questions on issues relating to family structure, child care and legal interactions (Weisheit, 1998; Arrigo, 1998; Sieber, 1993). As Benney & Hughes (1984) suggest “where common values are too few, where the fear of talking to strangers is too great...those who venture into such situations may have to invent new modes of interviewing” (p216)

Fortunately, pre-existing ethnographic techniques of data collection precluded the need to devise an entirely new methodology for accessing information on informants who are outside of mainstream culture (Adler & Adler, 1987). A long and honourable tradition of participant observation, originating in anthropology, and successfully adapted by the Chicago School of social research, has led to a wide body of research on areas as diverse as racism within a health service setting (Port, 1993), justice negotiation processes within juvenile courts (Cicourel, 1974), friendship patterns between ‘girls’ (Hey, 1997) and most pertinently, an increasing body of work on New Travellers (Hetherington, 1998, 2000; Martin, 1997, Webster & Millar, 2001).

For the purposes of the current research it was decided to build upon the techniques developed during the pilot study, and accordingly a period of five months was spent undertaking participant observation alongside Travellers at a series of ten sites in seven counties. During this time a total of twenty-three in-depth interviews were carried out (see p95). Throughout the research period observation was undertaken overtly, as I would have considered the use of covert methods both ethically unsupportable (Homan and Bulmer, 1982) and unlikely to deliver a greater level of knowledge than was garnered through more visible research techniques (Fielding, 1982). Thus my presence and intentions were widely known among the Traveller community throughout the entire fieldwork period (and see further below for a discussion on ‘accessing informants’). In addition, prior to undertaking the twenty three in-depth unstructured but focussed interviews which form the basis of Chapters 5-7, all participants were advised on the nature of the research, provided with an explanatory letter, given access to a copy of the interview topic guide and fully informed consent was sought prior to tape-recording the interview (see Edwards, 1993; Bergen, 1993; for discussions on interviewer experiences of contacting informants and ‘co-operative’ research techniques) . Thus a combination of observation and interview methodologies were used within this study, allowing

informants to use their own frames of reference for discussing aspects of their lives (Edwards, 1993; Skeggs, 1997) while permitting the researcher to immerse themselves in the culture of the observed, (Barnes, 1963) and through recording 'lived experience' (Van Manen 1990) develop an understanding of the cultural and symbolic universe which bounds the subject group (Rock, 1979; Sharrock & Anderson, 1980). Analytical and explanatory categories were then generated from the data gathered by use of these techniques, following the grounded theory approach outlined by Glaser and Strauss (1967).

The strengths of using participant observation as a main research method includes the following: a decreased likelihood of the researcher imposing their own world view on collected data (Douglas, 1976), an increased comprehension of participants actions and changing realities (Van Mannen, 1982) and interaction with the subject group's cultural differences (Sharrock & Anderson, 1980) which are then recorded by the researcher and disseminated to a wider audience via a theoretical framework (adapted from May, 1997). Conversely, the researcher needs to guard against particular dangers of undertaking this type of fieldwork, whether naively accepting narratives as objective truth unfiltered by rigorous analysis "writing out the area of practical consciousness" (Giddens & Pierson, 1998, p.83), or 'going native' through too close identification with the subject group (Mehan & Wood, 1975; Heritage, 1984). Additionally, account must be taken of the impact of the researcher's presence in social settings, as insistence on the naturalistic observations obtained through this methodology 'present an oversimplistic account of research' (Stanley & Wise 1993, cited May, 1997, p.139). Finally, the ever-present requirement for reflexivity, or awareness of the researcher's own practices and location within a particular socio-ethnic-cultural group, (with all that means for the individual's understanding) can create a situation where introspection becomes a substitute for 'a sociology of sociology' (Bourdieu, 1990).

Where participant observation can be extremely effective however is by allowing a researcher, who (on a personal or political level) has engaged with a social milieu (e.g Edwards, 1993; Roseneil, 1993; Skeggs, 1997), to turn their attention to analysis of actions and meaning which they may previously have taken for granted. Through such processes 'our own cultural equipment is thereby used reflexively to understand

social action in context' (May, 1997), enabling a researcher's own biography to both drive and inform the process of understanding of social action, (Roseneil, 1993). In particular, where a researcher has access to detailed knowledge of particular "iconic events which have become incorporated into a movement's culture" (Lofland, 1995, cited Martin, 1998, p.743) then following Buchanan, Boddy & McCalman's (1988) strictures to research 'opportunisticly' it is possible to use points of shared reference to promote cohesion with research subjects and obtain access to high quality data. As I have had past experience of festival attendance, have worked as a volunteer with a 'Traveller-led' charity, and have retained long-term contact with a number of ex-Travellers, this technique for accessing data and exploring symbolic meaning has proved particularly effective (see pilot study for further discussion). In addition, as the participant observer lives alongside the subject group through the period of fieldwork, a shared body of experience and dialogue are built up, developing rapport between researcher and researched which ultimately allows the flexibility of participant observation to be used to best advantage.

"if you're halfway through a survey and one of the questions isn't working, you're worried, what are you going to do? You can't change it. Whereas if I learn something useful in my field research, my observations, I can go out tomorrow and use it" (Becker in Mullan, 1987, cited May, 1997, p143)

Although as touched on above, there are many problematic aspects to undertaking ethnographic research, when working with a marginalized group on sensitive issues, (Lee & Renzetti, 1993; Sieber & Stanley, 1988; Homan & Bulmer, 1982; Wallis, 1977) the benefits of long-term contact with interviewees can only outweigh the disadvantages, as not only does participant observation allow for a relationship to be developed between the parties to the research, but enables informants to input into the process and content of the study, 'flattening out' the structural imbalances between researcher and researched (Oakley, 1981, Roseneil, 1993). As Skegg, (1997, p30) argues (paraphrasing Code, 1987), "responsible knowers look for the fullest possible explanations to understand the situation at hand, recognising their implicatedness in the production of knowledge and claiming responsibility for it. It involves understanding things, rather than adhering to received theoretical wisdom and

fashions". Epistemological constructs were therefore triangulated through comparison of observation, interview data, and a study of other empirical research relating to New Traveller lifestyles. Finally, although fieldwork and interviews had to end at a certain chronological point, it was clear that 'theoretical saturation' (Glaser & Strauss, 1967) had been reached, with additional data failing to modify or question the generated theory.

It is particularly noteworthy that a volume of additional data has been gained since leaving fieldwork, as part of the on-going relationship process (Bergen, 1993; Adler & Adler, 1993) with the Traveller community has involved the provision of legal advice on family law matters to callers to a national Traveller charity (see below). Every case which has been referred to me for advice has supported the findings of the doctoral research, as callers have discussed their reasons for engaging with legal processes, their attempts to circumvent the process, experiences of legal interactions, and emotional response to the proceedings. In all cases involving a Traveller ex-partner, caller's experiences have matched with the findings of this study (see chapters 5-7).

Given that this study is qualitative in nature and that such methodology tends to develop generalisable theory through the use of case studies, (Fielding, 1993; Lofland, 1971) this research is not concerned with representability, or the development of probability theories. In particular, it should be noted that as interviewees were self selected (see below) the sample consists of Travellers who are in an on-going parenting relationship, or are distressed or aggrieved that contact or residence of a child has ended (see Edwards, 1993; Adler & Adler, 1982; Bergen, 1993 for discussions on 'access to informants'). Additionally, following discussions with the Department of Social and Policy Sciences at the University of Bath, and a consideration of health and safety protocols, a decision was taken that interviews would not take place on sites which were regarded as potentially 'unsafe' by virtue of the likelihood of residing with site personnel who participated in a culture of heavy alcohol or class A drug use (see Bergen, 1993; Fielding, 1982; Craig, Corden & Thornton, 2002 on personal safety issues in the field). While by definition such safety considerations limited the sample profile, as is shown in the empirical chapters, narratives *were* obtained which deal with parenting arrangements where psychiatric

ill-health, domestic violence, drug and alcohol use are problematic issues. Apart from issues of researcher safety, the decision to live and interview on 'festival', 'family', 'working' or 'mixed' (i.e. family and single workers) sites was particularly important given that my daughter (at that time aged nine) Travelled with me throughout most of the fieldwork period and I had a moral responsibility not to expose her to potentially traumatic environments (McCosker, Barnard & Gerber, 2001; Patterson, Gregory & Thorne, 1999).

Despite the limitations on research imposed by such 'safety' decisions, this study does allow for a detailed exploration of post-separation parenting arrangements as followed by some New Travellers. Thus I consider that I have met the objectives of non-standardised interviewing techniques as defined by Lofland (1971) "to elicit rich, detailed materials that can be used in qualitative analysis. Its object is to find out what kinds of things are happening, rather than to determine the frequency of predetermined kinds of things that the researcher already believes can happen" (p76).

Research Design

The background, aims and objectives of this study have been laid out in the introduction to the thesis. However, between production of the initial research proposal and commencement of the main fieldwork, a number of changes were made as a result of findings from the pilot study (see above) and problems of access to 'professional' informants. The research was initially designed in two stages: firstly, a small number of interviews would be undertaken with professional informants (solicitors and court welfare officers) using vignettes (attached as Appendix 3) to enable interviewees to explore professional practice and potentially problematic areas without breaching confidentiality in respect of cases on which they had worked (Caplan, 1982; Sieber & Stanley, 1988). Secondly, interviews would take place with Travellers involved in legal proceedings over their children (see French, et. al., 2000). These interviews would take place using a topic guide (attached as Appendix 2) to facilitate unstructured but focussed discussion (Edwards, 1993; Finch, 1984; Oakley, 1981). At this stage I had had hoped to obtain approximately forty Traveller, twelve solicitor and twelve CWO interviews (see below for an account of the problematic of accessing informants).

Fieldwork was designed to take place in three distinct geographical areas in order that contrasts could be drawn between legal practices in a variety of locations. The selected regions were the South West (where the largest number of New Travellers are believed to congregate and travel for historical reasons associated with festival circuits); Wales and Herefordshire where a significant population of Travellers are also found, and finally the North (Lancashire, Yorkshire, Cumbria etc.) It was believed that Travellers who had interacted with the law in these diverse areas would be able to shed light on possible variations in practice and perceived regional attitudes towards their lifestyle, allowing me to compare their subjective experiences and case outcome with the findings from the 'professional' interviews. It was intended that four CWOs and four solicitors from each region would also be interviewed.

Although meeting Travellers who were willing to discuss parenting relationships proved fairly unproblematic once we (myself and my daughter) were living on site and had gained people's trust (see *accessing Traveller informants* below), it soon became abundantly clear that the vast majority of informants had not interacted with the law, and were in fact quite determined to avoid legal proceedings over their children. A number of contacts had heard of 'friends of friends' or 'someone I lived on a site with' who had been through legal action, and several anecdotal court horror stories were provided, but despite Travellers willingness to attempt to contact people on our behalf, time soon ran on, with limited numbers of 'court case' informants obtained. On more than one occasion I was notified that X Traveller who had been involved in proceedings was on Y site and if I travelled down there they might be willing to talk to me. On arriving on site I found that they had left, or were out, and despite leaving increasingly demanding messages on mobile phone message services and pagers, or notes on vehicle windscreens, I found it unrelentingly difficult to obtain 'court' informants. By the end of the five month fieldwork period, only twelve such Travellers had been accessed (see Chapters 5 and 6) although informal discussions were held with another three informants who declined to be interviewed.

Accordingly, as the problem over accessing 'court cases' was becoming clear by two months into fieldwork, after discussions with my supervisor a decision was taken to interview Travellers involved in non-court cases, thus expanding the pool of informants and broadening the research to include all forms of post-separation

parenting. However, the amount of time spent in seeking informants, and to some extent finding that 'non-court' informants appeared willing to 'talk about' their parenting arrangements in a social setting, but seemed to find the idea of a formal interview mildly odd as they considered they had nothing unusual or interesting to say, meant that the total number of interviews undertaken finally totalled twenty three. Ironically, (and almost inevitably) once 'saturation' had been reached and the fieldwork period was ending along with the Travelling season, I was contacted over the following few months by several informants with narratives they were anxious to share, and indeed once analysis was well underway, by three 'court' case Travellers who would have proved gratifying interviewees six months previously.

Paradoxically, although we had not envisaged problems with accessing 'professionals' for interview, these proved the most difficult groups to engage with. As we were aware that many solicitors would not have had contact with Travellers, letters detailing the research and including a short questionnaire on their experience of Traveller family law cases, were sent out to all practices who were listed in the Traveller Law Research Unit's (TLRU) directory as practicing in the relevant locations. A copy of this letter is included in Appendix 1. Stamped addressed envelopes was included to facilitate return of the questionnaire on which solicitors were asked to indicate their willingness to be interviewed on this subject. Although 29 questionnaires were sent out, only 17 were received (58%) despite chase up letters, phone calls and emails. Letters were also written to specialist legal publications requesting assistance with the research, faculty members' personal legal contacts were approached (both by staff members and myself) and asked if they would consider participating in the research, and advertisements were placed in specialist Traveller journals. Finally, approximately twenty five 'general' practices in the relevant areas were contacted with a copy of the letter and questionnaire after their details had been selected from the Law Society's list of local firms. *No* interviews were set up as a result of these contacts, although two further responses were received, and one firm asked for specialist advice and a copy of the pilot study, to assist them in preparing for a care proceedings case involving Travellers.

Ultimately, only one solicitor agreed to be interviewed, and this lawyer had worked on a case for a Traveller informant (who kindly facilitated the interview). This

solicitor had no prior experience of Travellers, was not included in the TLRU's list of specialists and did not practice at a firm contacted in the second round of questionnaires, so without the help of the Traveller informant would not have been interviewed. Additionally, and at a later stage of fieldwork, all Travellers who had sought legal advice were asked whether they would mind me approaching their solicitors for interview. Although informants were advised that their particular case would not be discussed and that we intended to use vignettes, only four Travellers provided addresses for lawyers. Of these four firms, only one (in the South West area) responded to the request for assistance and agreed that an interview could take place (see above).

Court Welfare Officers however, proved slightly more willing to participate in the research than solicitors. A similar letter and questionnaire (see Appendix 1) was sent out to all CWO offices in the selected localities. In addition, the Association of Family Court Welfare Officers was contacted, and a request made for information on the best way of contacting their members who might be willing to participate in interviews. The Association proved most helpful, providing a list of contact names and addresses, and these link individuals then circulated Officers in the relevant localities. Ultimately, four CWO interviews were obtained, two in the South West region and two in the Northern area. One Northern region CWO was contacted by 'snowballing', as they were a personal friend of an interviewee based in the South West area. Three CWOs (one northern, two south-western) had professional experience of Travellers, and the remaining CWO had had personal contact via a relative who knew Travellers. Details of vignettes used with both CWOs and the solicitor are included as Appendix 3.

As the 'professional' section of the research has proved to yield a far lower level of response than had been hoped, (despite the significant amount of time spent on this area of design), full analysis of this section has been excluded from the main body of the thesis. However, brief findings from these interviews are included in Appendix 4, where a comparison of 'professional' responses is made with a Travellers' 'wish-list' based upon their experiences of working with CWOs/solicitors. I do, however, intend to produce a future paper based upon the 'professional' elements of the research, drawing for comparative purposes upon a recent study which includes information on

minority ethnic families and their experience and perceptions of the family court system (Buchanan, Hunt, Bretherton & Bream, 2001).

Finally, in recognition of the time and commitment to the research shown by Travellers and 'professionals' alike, a small payment of £10 was made to each informant after interview had taken place. No mention of payment was made in the research introduction letter distributed to Travellers, and the majority of informants were unaware of the existence of a research fee until they were offered the money. While financial considerations cannot of course be totally ruled out from individuals' decision to participate in the research, I believe that this factor is negligible, as in more than one case the informant attempted to refuse the sum, asking anxiously if I could 'afford it'. I wish to acknowledge the assistance of the Department of Social and Policy Sciences in providing additional funding to assist in making these payments to informants, and to help with petrol costs for the research vehicle (see below).

The Interviewing Process

Technical issues

All interviews (both 'professional' and Traveller) were tape-recorded after obtaining informed consent (see *Introduction* and for a general discussion on the ethics and practicalities of obtaining consent, David et. al., 2001; Thorne, 1980; Bulmer, 1982). Recordings were made on a Sony TC5-580V Recorder, which is a small, discreet machine containing a voice operated recording system and built in microphone. This machine had previously been used successfully during the pilot study, and as a result of the lessons learnt during earlier fieldwork, I continued to use stereo tie-pin microphones with the longest possible leads, to allow for movement by interviewees. Indeed, as I had previously discovered, it is possible for an individual to chop wood, change a baby or cook while being interviewed, decreasing the sense of inhibition and restriction of movement. The decision to use tie-pin microphones was taken after the pilot study revealed that a multi-directional microphone can pick up extraneous noise during interview, to the detriment of the recordings and subsequent transcription, given the high level of noise often found on sites. 'Traveller interviews' were envisaged to take approximately one to one and a half hours but in fact the shortest interview (where numerous sections were missed due to lack of contact with a child's

other parent) took approximately twenty five minutes, and the longest over three hours. On average however, tape recordings ran for around fifty minutes.

A digression on Anonymity

Prior to interview (and again during recording where an informant appeared concerned), Travellers were advised that the study would be anonymised (Barnes, 1963; Lee & Renzetti, 1993; Adler & Adler, 1993). All informants were asked to select a name under which their interview would be written up, creating an arena where even this preliminary stage of the interview process was 'co-produced' by participant and researcher (Fielding, 1993; Barnes, 1963; Finch, 1984 etc.). While two-thirds of informants stated their willingness to use their own names, given concerns over confidentiality, pseudonyms were used in all cases. Despite this anonymisation, ethical dilemmas have arisen over this point, as the Travelling community is diffuse yet closely interconnected so there is always a chance that narratives or characteristics may prove identifiable by other Travellers through "deductive processes" (Boruch & Cecil, 1979). As such, considerable discussion on this issue has arisen during the writing up stage, and we have attempted to preserve anonymity where possible, following concerns which arose after the pilot study, where some informants were found to be identifiable by professionals working with Traveller families.

For the purposes of the current research, we have attempted to preserve anonymity by the use of pseudonyms for informants, (in some cases in direct contradiction to interviewees' instruction that they wished to use their own name as they had 'nothing to hide' and wanted to help other Travellers in similar situations) and omitting information on the locality/region where incidents took place. I remain aware however, that in some cases it may prove possible for informants to be identified by individuals who are aware of their circumstances, but have decided against altering details such as ages, number, age and gender of children etc. as I believe that this would compromise the integrity of the research, as well as denying autonomy to the informants who have 'given' of their stories in the belief that this research may prove of use for researchers and practitioners engaging with Traveller families.

However, where future outputs based upon this thesis are published, precise detail of cases will be limited, and instead of the use of 'names', informants will be identified as Travellermale1, Travellerfemale1, etc. Following such practice will automatically distance the reader from the subject, creating an aura of confidentiality. Moreover, papers dealing with selected aspects of the research do not need to provide such an in-depth narrative as is provided in this thesis, and thus informants' entire life stories will not be available to the reader of journals and conference papers. Finally, in connection with this point, it is worth noting that theses tend to be read only rarely, and then (usually) only by interested students in the same academic establishment. As such, the number of potential readers of this study is limited, thus diminishing the chances that an interviewee will prove identifiable.

The interviews

During the interview process, if an informant appeared unhappy about the direction in which the interview went, or declined to answer, after gentle probing (where it appeared appropriate), the subject was changed. It is of interest however, that in more than one case, the informant voluntarily went back to discuss a section of the interview which had been truncated (see Finch, 1984; Graham, 1984; Edwards, 1993 for discussion on interviewer/interviewee affinity and the 'double subjectivity' (Lewis & Meredith, 1988) which affects the quality of data as the interviewee's perceptions of a researcher change during interview). Throughout the interview process all informants had access to the topic guide for reference, and thus the data gathering process was controlled by the Traveller to some extent, in that they could clarify the aims and objectives of the study, ask to stop the recorder when they wished, question the ethics behind the project, or ask me a specific question relating to the interview process and topic being considered. In addition, informants had primary control over deciding where and at what time their interview should take place,

Of note too, are the number of interviews which took place in a 'communal' setting, despite my concerns for confidentiality. In all but one case, where the informant had a current partner this individual was present during the interview, although on all occasions the partner indicated their willingness to leave the informant alone with me. Thus, it can be taken that their presence throughout is regarded as a signal that openness exist between the couple with regard to previous relationships and post-

separation parenting arrangements. On occasion too, friends of the informant would wander in to the vehicle or interview site and make an enquiry about use of tools, whether child care was needed, if the informant wished them to collect wood water or food from an off-site location, to request assistance, or simply to 'see what's going on'. On each occasion that this happened I turned off the tape recorder and asked if the interviewee wished to continue later. Only two informants asked that the interview be stopped, and the remaining Travellers indicated their lack of concern over the entry of the third party. As with the pilot study, I found that friends and partners were considered qualified to interject comments during the narrative, and some of the most telling parts of the interview process are where third parties have entered and sat down to listen to the narrative, perhaps adding their own experiences to the discussion, both during or after recording.

In these circumstances the 'private' interview could virtually become a focus group (defined by Denzin & Lincoln, 1994 as a "qualitative data gathering technique that finds the interviewer directing the interaction and inquiry in either a very structured or unstructured manner" p.365) on 'Traveller-appropriate' parenting behaviours. While wherever possible, following a 'group' interview, I attempted to clarify any (of the admittedly rare) discrepancies or 'blurred' sections of the interview schedule by conferring with the interviewee at a later date, (and moreover triangulating interview data with observation and even 'gossip' if this was possible), the presence of an audience must inevitably raise certain issues relating to validity of data gathered in such circumstances. While Lewis (1995) asserts that "some topics are better discussed by a small group of people who know each other" (p2) clearly some issues may not be discussed in communal settings as fully as may be desired by either the interviewer or interviewee, (Kreuger, 1988). Moreover, in certain circumstances participants might attempt to 'gloss' certain responses or behaviours to manipulate their public image (Rosenberger, 1996). Given the preoccupation with 'reputation' among the Traveller community (see Chapter 4) public reiteration of a particular version of a parenting dispute may thus act as a strut in supporting an individual's framework of validation for particular actions by supporting their belief that they had no alternative option available to them at a given time resulting from circumstances outside of their control (see empirical chapters and particularly Chapter 4). Thus on occasion the presence of 'third parties' at interview may assist an informant in sustaining their narrative (even

if unconsciously), by ensuring that the interviewee is supported in justifying their stance (Glesne & Peshkin, 1992) and also permitting other interested parties to share their “intense or lengthy experience of the topic of discussion” (Kreuger, 1988, p94)

In general, children were the only individuals who informants excluded from interview, and often only at particularly ‘sensitive’ points of the narrative, (for example where a parent’s ‘inappropriate’ behaviour was being discussed, or discussion arose over domestic violence, etc.) Inevitably though informants’ children frequently interrupted the recordings with demands for attention, food, etc. Overall, noise from children (either interviewees’ or neighbours) and dogs formed a constant backdrop to the interview process, as did the sound of daily activity of traffic, site vehicles or domestic chores. Despite this, all tapes were clearly audible when I came to transcribe them.

Interviews with professionals were unproblematic (but see above for a consideration of the difficulties relating to obtaining this sample), and little clarification of issues was required. These interviews took in the region of one to one and a half hours, and were tape-recorded, using the equipment referred to above. One interview took place in an office, two at CWO’s homes, and one at Glastonbury festival site where the officer was attending in a personal capacity. Given noise levels at the latter venue, practical issues relating to interview (e.g. noise levels, interruptions from passers-by) were very similar to those found when recording Traveller informants, however in this case the recording was stopped and restarted on each occasion to ensure that privacy prevailed. Details relating to ‘professional informants’ have also been anonymised, in line with the commitment made to CWOs, prior to their agreeing to be interviewed. Transcripts of their interview and a summary of ‘professional practice’ findings (Appendix 4b) will also be sent to individual officers, and copies of the findings lodged with the Family Court Welfare Association as agreed with that organisation prior to interviews being arranged.

Accessing Traveller Informants

Obtaining access to informants for interview purposes was undertaken in four ways. Firstly, through building on the contacts made during the pilot study, secondly through advertising in specialist publications with a high Traveller readership, thirdly

through 'getting out there' and talking to people during the participant observation stage of research, and finally, through 'snowballing' interviewees via all of the above routes. Each method of contacting informants will be considered in turn.

- Access to the informants for the pilot study had been made through three organisations (see Bergen, 1993; Edwards, 1993 for a discussion on the positive and negative aspects of working with 'gate-keeping' organisations). A pre-existing relationship existed between researchers in the Department of Social and Policy Sciences and the national charity The Children Society, who run a New Traveller advice and advocacy service across the West Country. Through the auspices of this charity, contact had been made with a number of Travellers in the region. Although during the main doctoral research no contact took place with previously interviewed Travellers, nor did I work directly with the Children Society officers, during fieldwork I encountered a number of Travellers who had had contacts with the organisation and through them had heard of the earlier study, as the charity had been kind enough to distribute information and introduce me to Travellers during the pilot project. In addition, workers for the charity had distributed some leaflets outlining the current project (see Appendix 1) during their interactions on site over the main fieldwork period. The second national organisation who gave assistance during the pilot project, Friends, Families and Travellers, (FFT) provided publicity for the doctoral research, through mentioning the study to Travellers and also allowed me to advertise for interviewees in their quarterly publication. In addition they were kind enough to permit me to attend at Pilton festival 2000 with their advice and advocacy team where I was able to access informants for interview. Finally, the Traveller-led collective 'Rainbow Circle' who run a series of arts, crafts and entertainment camps on licensed sites throughout the year, proved as fertile a source of interviewees as they had during the pilot project. In addition, I worked in a variety of site crew roles with the organisation for much of the 'season', carrying out participant observation among full-time and seasonal Travellers who attend their events.
- Advertisements (see Appendix 1) were placed in a variety of publications which attract a readership of the type sought for interview (see Bergen, 1993 for a

discussion on informant anonymity until *they* elect to contact the researcher). These included: newsletters of the New Futures Association (Travellers and homeless persons charity), Groundswell (national grassroots organisations working with the homeless and Travellers), Travellers Times (TLRU publication), Travellers' Advice Team newsletter, FFT newsletter, Single Parent Action Network newsletter and finally, Festival Eye, the listings magazine for festivals and other gatherings. In addition, emails detailing the study were posted to specialist lists such as Schnews (radical e-publication) and the 'Traveller-Acad' email list which is accessed by Travellers, Researchers, Health Visitors, Education workers etc. in the hopes that information relating to the study would be disseminated widely.

- During the participant observation stage of the fieldwork I was overt in my role as a researcher, as well as a member of the site crew, Festival Eye sales person, and event reviewer. At every opportunity when I was not observing or fulfilling one of my other roles, and bearing in mind the injunction to be 'opportunistic', (Buchanan, Boddy & McCalman, 1988) we (my daughter and I) distributed informant information letters and begged and cajoled people to consider being interviewed, or to pass on the information to their friends who might have engaged with legal processes over children. When working as site crew on larger festival sites such as Pilton (Glastonbury) or the Big Green Gathering, I placed informant information leaflets under the windscreen wipers of likely looking vehicles, or on the steps of trailers and buses, justifying this hard sell to myself on the grounds that information on the research needed to be disseminated and that paper is never wasted in a Travelling environment as it can be written on or burnt. Eventually, when undertaking interviews, or simply observing at sites, I was gratified to hear that numerous Travellers had either seen a leaflet or advertisement, or heard about the research via friends.
- Last but not least, informants (whether interviewed or not) were accessed through 'snowballing' (May, 1997; Bell & Roberts, 1984). As referred to above (iii) a reasonably high percentage of the Traveller population heard about the research during the fieldwork period. This wide spread knowledge of the project and my

increasing social and cultural capital gained during this time, meant that Travellers appeared generally well disposed to us, and were willing to discuss various aspects of their lives and behaviours when we encountered them in social and work settings.

Overall, through attendance at ten sites, in seven counties (comprising 'roadside' illegal sites, collectively owned land and 'tolerated' but unlicensed sites orbital to large festivals), working as site crew on seven festivals, and through four Travellers contacting me following receipt of a leaflet or advertisement, twenty three informants were interviewed (see Chapter 4). In addition, countless hours of participant observation took place over the five months of fieldwork and numerous conversations were held with both seasonal and full-time Travellers. Doubtless, at times informants (particularly those we lived among) were heartily sick of being asked questions or simply being observed. Throughout, the vast majority of Travellers encountered, were friendly, helpful and above all, tolerant. I hope that they can say the same about me.

'Becoming a Traveller'

By definition, through retaining my identity as a researcher who had (just) enough financial resources to survive, access to a house and support from the academic community, I was 'acting as' a Traveller, not 'becoming' one. However, through the process of entry into the community, some stages of the experience of 'becoming a Traveller' were concrete and identifiable, forming a basis of shared experience with informants.

Particularly noteworthy was the reaction of my housed neighbours when I purchased and brought home a large off-white ex-ambulance which through a period of several months and a number of misadventures was created into the 'fieldwork vehicle'. The learning curve involved in obtaining, fitting out and attempting to drive, (let alone registering for insurance and tax purposes) a living vehicle, will form the basis for another paper, but it became clear to me within a very few days, that Traveller perceptions of prejudice by many of the settled population are not mere paranoia (Murdoch, 1994; Greenfields, 1999; Morris, 2000; etc.).

During the three months between obtaining the vehicle and going 'on the road' I was visited by the police to see if the vehicle had been taxed (as it was parked on the roadside), my landlady had complaints made to her about the vehicle, and finally the windows of the ambulance were smashed and some items of tools and a large, expensive vehicle battery was stolen. In addition, my daughter and I were subject to some fairly unpleasant (and inaccurate) comments from individuals living in the vicinity. Prior to fieldwork we were living in a fairly large village with close links to the city of Bath which is only a few miles away. We were therefore not living a totally unsophisticated life, nor resident in an area where Travellers had never been seen. The experience of encountering discrimination on the grounds of lifestyle, despite the fact we lived in a house and had a neatly tended garden, was quite enlightening.

These experiences, in fact ones which proved common to many Travellers we subsequently encountered, were ultimately to prove a useful research tool, enabling me to build rapport with informants by recounting episodes of 'becoming a Traveller' which mirrored their own experiences, creating a sense of authenticity and reciprocity (Edwards, 1993; Finch, 1984; Oakley, 1991). In addition, the presence of my nine year old daughter throughout most of the fieldwork period, proved a useful way of making new contacts, as she became friendly with other children on site, and through them, their parents. Overall, I would state that a child is the most useful research tool to take on ethnographic fieldwork, as they can quite innocently ask questions or make observations which an adult cannot. Where a child is observant and intelligent, they may also add to the researcher's pool of knowledge very effectively and rapidly.¹

Additionally, Travelling with a child meant that discussions around problematic schooling issues were able to take place quite naturally. Although in education terms, (as in many things), we were privileged visitors to 'Travellerdom', enough essential

¹ Clear ethical considerations exist when taking a child on fieldwork, i.e the individual child's ability to sustain a fieldwork role, their level of pleasure or distress 'in the field', personal safety and state of health, access to education, when it will be necessary to exit the field to protect the child's best interests, etc. In addition, the responsible parent needs to be aware of the ways in which they will use or ignore information provided by the child and/or their friends when interacting in a social setting. It is particularly noteworthy that I have not been able to find any literature relating to the role of the researcher's family in the fieldwork setting, despite the considerable role such family members may play in the research, and the limitations which may be placed upon the female and/or lone parent researcher if assumptions exist that fieldwork cannot take place when a child is present at a 'research location'.

experiences remained the same to permit informed discussion to occur between researcher and researched. During the fieldwork period, to avoid legal recriminations, my daughter was registered as a Traveller child, thus enabling her to be absent from school for blocks of time, yet meaning that her school place was open for her when we returned to a house. We were helped immensely by the fact that Travelling for research purposes fulfils the terms of the Education Act 1944, as I was therefore nomadic for work related purposes. The head-teacher at the school where my daughter attended was also extremely helpful, providing her with worksheets and books in order that her education did not suffer. Interactions with other parents however, tended to indicate that schools were rarely so flexible if a family wished to travel for several months at a time.

On first going onto site as 'pseudo-Travellers' we elected to attend a 'gathering' where we suspected we would find a number of informants whom we had met the previous year during the pilot study. We were fortunate that we did so, as these Travellers proved well disposed enough towards us to mention the research to other site inhabitants, and generally seemed quite happy to see us again. It was definitely easier to slip into site life and observe family interactions when we knew at least one person on site prior to 'pulling on', and this initial social contact also created a situation where it became easier to introduce the research subject as a topic of conversation with strangers (see Adler & Adler, 1980; Roseneil, 1993).

Inevitably living alongside Travellers and working as 'site crew' at Gatherings and Festivals meant that our skills at outdoor living developed rapidly, and where I was unsure of certain techniques we were able to approach seasoned Travellers for advice. This shared routine and learning sequence meant that in turn I was relaxing into the process of 'becoming a Traveller' and on occasion found myself 'watching out' for individuals who had arrived at their first festival or gathering and appeared somewhat bemused.

Although my daughter was readily accepted as a site member, part of the acceptance process for me, involved the gradual extension of socialisation periods around fires in the evening, and demonstrating my willingness to 'host' meals or share beverages around my fire or vehicle. In itself, such a pattern of entrance into fieldwork is not

uncommon, given the importance of food and communication to social relationships, and the opportunities presented by such periods of relaxation which enable fieldwork participants to make a 'social' assessment of the researcher (see for example, Adler & Adler, 1993; Barley, 1986; Kroeber, 1959; Lemon, 2000; Cowan, 1990; Burgess, 1991; Skodova, 2002). Participating in music sessions, and becoming involved in impromptu cabaret performances at festivals and gatherings also led to a wider acceptance within the community, as I was able to demonstrate that I already possessed some knowledge of the 'multi-skilled' nature of Travelling life, (given that Travellers who are habitual festival attendees often possess a range of entertainment and circus skills which permits them to work as entertainers as well as general site crew and chefs, musicians, etc. as a way of earning a ticket for a fee-paying festival). Moreover, balancing the roles of parent, worker and researcher over some months, led to a fairly strong sense of community, as I worked and lived alongside full time Travellers who have learnt the most efficient and practical ways of blending a variety of demands on their time. Given that many people work from home with their younger children alongside them, time-management and the ability to co-operate with other site members can be of fundamental importance (see below) in terms of completion of chores as well as being able to have time for a social life.

A number of interviews were finally obtained as a result of a series of contacts with informants who observed me observing them at a variety of sites and whom (I later learnt) had made enquiries as to my origins, contacts and general standing among the community (see further, Barley, 1986; Emerson, 1988). Finally, having satisfied themselves that I was relatively harmless, these Travellers would eventually ask whether I was still undertaking interviews and if I wanted to talk to them. These particular informants often proved to be the most interesting, as well as the hardest to access (Johnson, 1990). Generally they came from the group I have identified as possessing a 'strong' Traveller identity (see Chapter 4) and their often complex narratives were not presented until they judged me worthy of the information. In almost all of these particular encounters a virtually ritualistic conversation occurred prior to the offer of interview, wherein comments were made about my working skills, vehicle, etc. and that they had heard about the research from (always) a named person, on (usually) a named site. Generally the informant had heard 'about' me some weeks or months prior to this contact taking place. In fact the entire acceptance

process could range from days to months, with interviews sometimes being postponed on several occasions so that I had to attend at a particular site or visit a trailer or vehicle three or four times, sitting and waiting until visitors had left and then being told that the informant was too tired, or for some other reason the interview had to be postponed again. I gradually gathered that such techniques were in themselves part of the 'testing' of me as an individual, prior to the informant 'granting' access to a successful interview (Barley, 1986; Fonesca, 1995; Okely, 1983).

Finally, for most of the interviews obtained through leafleting or newsletter advertising (see above), I subsequently discovered that the same 'vetting' process had taken place with enquiries being made about my background prior to the interviewee getting in contact. Thus there are indications that the 'closed' network functions well in terms of information gathering and news exchange, even among seasonal Travellers who may not interact with such a large cross-section of their community as a fully nomadic person who follows a wide circuit. As such, without the assistance of 'gatekeepers' (see Gilbert, 1992; Adler & Adler, 1987; May, 1997; Bryman, 1988) to mediate my contacts with the Travelling world, as well as extended periods of time living as a Traveller, (Martin, 1997, 2002; Hetherington, 2000) it would not have been possible to glean the rich data which has been obtained during this study.

Exiting the field & on-going contact

Leaving the field was an emotional experience, and in many ways, one which I regret. Living a nomadic life (albeit for a limited period of time and while retaining a conscious sense of purpose) can be an intensely seductive experience, and one from which it can prove difficult to psychologically and emotionally disengage (Adler & Adler, 1987; Snow, 1980; Barley, 1986; Ellis, 2002) particularly when moving to the isolation of a housed, somewhat solitary life (a comment reiterated by numerous interviewees). Returning to the glamour of running hot water and flush lavatories does of course bring many consolations, but for some months after returning to a house, the tendency remained to think of oneself as 'grounded' and on occasion, suffering from mild claustrophobia and melancholia when indoors, with the curtains drawn and the warmth provided by central heating rather than a wood burner.

In retrospect, certain psychological and practical disengagements from the Travelling world took place over the initial months spent analysing the fieldwork data. For a number of years we (as a family) have generally attended at least one festival or gathering each year. In the first year after fieldwork ended however, my daughter and I did not spend time on a festival site, and I experienced some degree of reluctance to visit locations where people we had lived among would be found (and see Barry, 2002 for a similar example of avoidance of social situations as a way of disengaging from fieldwork mode). In addition, my mode of thought and speaking altered over the months living apart from Travellers, and my hairstyle and appearance also shifted back from 'fieldwork' mode to a more conventional look, commensurate with working in a university environment.

This is not however, to say that no contact has occurred with Travellers during the disengagement process, as inevitably we remain 'in touch' with a number of seasonally and fully nomadic friends and acquaintances, and I also remain professionally committed to working with this community (Adler & Adler, 1993). The best explanation for the above comments perhaps, is to state that at the time I felt a need to step back from the Travelling community, in order to analyse the research findings in an objective environment – to feel academically rather than emotionally engaged with the project (Ellis, 1995; Barry, 2002).

It can therefore be seen that 'getting out' after fieldwork involved a slow and partial disengagement from the Traveller community (Snow, 1980; Barry, 2002; and see Burr, 2002 for a discussion on the ethical responsibilities facing the researcher during and post-fieldwork) a process which to some extent moved into reverse as the 'writing-up' stage of the project came to an end. The gentle blurring of boundaries and slow return to the status quo can thus be said to be a conscious decision, as my relationship with some members of the community has been long-standing, based on mutual friendships, professional associations and genuine enjoyment of attendance at some festivals and gatherings. Given the nature of the pre-existing relationship, I do not wish to separate from the community entirely (Adler & Adler, 1993; Parkin, 2000), but equally do not wish to be completely 'a member' of Traveller society, caught in a symbiotic relationship of researcher/participant, without function away

from 'my people' ². Thus, the complexities of engagement/disengagement referred to by some interviewees in this study, have in themselves resonance for the fieldworker engaged with members of this 'closed' community (see further, Adler & Adler, 1987; Pemberton, 2001). However, "in 'doing ethnography' engagement is used to an advantage" (May, 1997, p139) and as such, without experiencing the intensely close relationships which can develop between Travellers who live on site together, it would not have prove possible to create as coherent an analytical framework as is found in the current study.

Finally, I call this section of the chapter 'on-going' contact, as in addition to personal and ethical reasons for wishing to remain in contact with the community (see below), an opportunistic hope exists that further research opportunities will arise in this field. Although as considered by Ellis (1995) reflexive thought must be undertaken on the potential impact on 'research subjects' of 'remaining in touch' as (in common with Burr, 2002) Ellis points out that ethnographers often focus more upon the data gathered and the career implications of their findings than on the effects on the study's participants.

"When we show concern about returning, often it is for the purpose of gathering new data (Adler 1992; Gailmeier 1991; Miller and Humphreys 1980) or to seek members' validations of our findings (Bloor 1983; Emerson and Pollner 1988; Rochford 1992). Our emphasis is not normally on the emotional and ethical quandaries we find ourselves in as friends qua researchers with the people left in our publishing wake" (1995, p68).

However, another element of the equation involves the fact that prior to commencing fieldwork I made certain undertakings to charities and organisations working with

² (While not for one moment associating myself with the anthropological 'greats'; it is noteworthy that a tendency exists for ethnographers to be 'typecast' with Malinowski (for example) being forever associated with ethnographic studies of the Trobriand Islanders, (1922, 1929) regardless of his later concentration upon wider geographical areas and his broad-brush theoretical formulations (1948, etc.). Similarly Evans-Pritchards' later work on gender (1965) and civil society and nationalism (1974, 1997) are often ignored in favour of his great studies of the Nuer, (1940) and the Azande peoples, (1937)).

Travellers. As a result of which, these bodies are able to call upon me for information and case advice relating to family law matters. Therefore, the relationship between researcher and researched endures in a number of complex (and mutually valuable) ways, over and above the limits of this particular study. Given that this project has arisen from a long-term interest in the well-being of Travellers, as well as intellectual curiosity, the relationship will doubtless endure into the foreseeable future, albeit more distanced than when living alongside informants. (See further below (*ethical issues*) and also Burr, 2002; Parkin, 2000; for consideration of the tensions between the role of ethnographer and 'activist' - when and how the roles blur and whether it is ever permissible to move beyond the role of 'interested bystander' and undertake practical (but situation altering) actions in the fieldwork situation).

Analysis

Being attracted to the concept of 'the researcher as bricoleur' (Denzin & Lincoln, 1994) in essence, the ethnographer as a multi-skilled investigator who will use a variety of methods, strategies and analytical techniques to create a "complex, dense, reflexive collage-like creation" while never losing sight of the fact that "research is an interactive process shaped by his or her personal history, biography, gender, social class, race, ethnicity...." (Denzin and Lincoln, 1994, p3); I preferred *not* to use a standardised analysis package when working with the data gathered during fieldwork. While the analysis was based upon Glaser and Strauss' seminal 'grounded theory' (1967), and thus included their four distinct stages:

- a) comparing incidents applicable to each category,
- b) integrating categories and their properties,
- c) delimiting the theory,

and

- d) writing the theory;

the process of analysis also incorporated elements from several other theoretical perspectives (see below) demonstrating the classic 'bricoleur quality' (Denzin & Lincoln, 1994) or even that of the 'boatbuilder' (Hammersley, 1999) who "finding that a 'named' method is inadequate to the task will bring in other methods in order

to keep the ship afloat” (McLeod, 2000). Ultimately therefore the analytical methodology was developed as a result of the ‘trial and error’ process perfected during the pilot study. Interestingly however, subsequent reading of Ritchie & Spencer’s paper on working with the ‘Framework’ model (1994), reveals strong similarities between the stages undertaken when using *their* analytical techniques, and the practice used for the purposes of analysing the current research.

In brief, the analytical process was as follows: after manually transcribing each interview tape (a lengthy process, averaging eight hours per recording) I then began the process of familiarising myself with the data. Initial reading of transcripts was undertaken, using the interview topic guide (attached as Appendix 2) as a basic tool to enable the first stage selection of recurrent themes. Then, by working on a case-by-case basis (Patton, 1990), systematically sifting the information, and charting and sorting material into particular themes and issues “events are constantly compared with previous events, [and] new topological dimensions as well as new relationships may be discovered” (Goetz & LeCompte 1981).

Given that the interview topic guide had been devised with the intention of discovering the personal circumstances and family arrangements of parents of both resident and non-resident children, a number of ‘interview sheets’ could be used, depending upon the individual’s situation. For example, a lone parent living in a house and seasonally Travelling, would be asked a slightly different set of questions from a fully nomadic non-resident parent. Overall however, certain basic questions (beyond gender, age, marital status, number of dependent children, etc.) relating to household members, attitude to Travelling and degree of contact with the nomadic community were asked of all respondents. This set of ‘core questions’ were therefore amenable to cross-case analysis, enabling me to “group answers to common questions [and] analyse different perspectives on central issues” (Patton, 1990, p376)

During the interview all informants were asked to discuss the history of their parenting relationship and any subsequent partnerships, including whether or not children were born during the later relationship. Once the ‘core’ details had been established, separate sets of questions (tailored to family circumstances) were asked of each participant. These later questions related to the ways in which post-separation

parenting arrangements were undertaken, the extent of community involvement in the arrangement, and whether contact had taken place with solicitors, CWOs and other legal personnel. Discussion also took place around conflictual issues between parents, history of particular disputes, ways of overcoming difficulties, the extent to which contact or residence agreements had altered over time, and how well these arrangements and parental relationships were working at the time of interview. These *particular* questions were to a large extent derived from the findings of the pilot study where consideration was undertaken of changing family relationships since informants had become Travellers. The experience gained through the earlier study thus enabled me to decide the most efficient flow of questions, and to highlight particular aspects of interest, such as problems over establishing regular contact with a parent living some distance away from the children of the family.

Having read through the transcripts and coded specific themes by reference to the sections of the topic guide, I made notes of recurrent concepts and responses, and then 'clustered' the data as a preliminary stage of the 'categorisation' and 'conceptualisation' process (Dey, 1993). The categories thus generated were then entered into a database of responses, cross-referenced to individual informants' reference cards (which contained basic data such as age, gender, children, length of Travelling history, whether attended court over residence/contact, etc.) Emerging themes were then explored in more depth, enabling a sub-division of responses into an index of behavioural and attitudinal categories. Through this process individual categories became "bound up on the one hand with the bits of data to which it is assigned, and on the other hand with the ideas it expresses" (Dey, 1993, p102), permitting an exploratory schema to be devised. Separate cross-referenced indexes were then created, dealing with 'court' cases (both 'initiators' of proceedings, and 'respondents' to legal action), and 'non-court' arrangement interviewees, enabling a 'cross-case' comparative analysis of themes found among the varying sub-groups of Travellers ('court' and 'non-court').

I then began to elaborate on key concepts by using the 'constant comparative method' (Lincoln & Guba, 1985), enabling the information to be sorted in a manner which ensured that the categories fitted the data, rather than vice versa. For example, the

more detailed refinement of the category of 'identity' enabled a consideration of an individual's location in the continuum of 'Traveller' identities (see Chapter 4), leading (among other aspects) to an exploration of how this impacted on 'parental' or 'gender' attitudes and behaviours towards court engagement, settlement into accommodation for the duration of a court case, and perception of 'Traveller-appropriate behaviours' (see empirical chapters).

Throughout the latter stages of the analytical process, observational data was used as a background reference (Becker & Geer, 1982; Spradley, 1997), enabling me to check my contemporary interpretative accounts of events against subsequently obtained interview data (Lofland, 1971; Adler & Adler, 1994). As such, while the empirical chapters of this research are based predominantly upon informants' recorded narratives, the participant observation aspect of the study proved of far more significance than a mere route into interviews (Zelditch, 1962; Denzin & Lincoln, 1994; Gilbert, 1992), as by comparing my 'own' observations with 'Traveller' parenting narratives and anecdotal and academic examples of NT family life (Earle et al., 1994; Dearling, 1998; Webster, 1999), it was possible to triangulate the research findings (Lincoln & Guba, 1985; Dey, 1993) and thus be assured of the data's validity (Johnson, 1997), at least with reference to the group of NTs whom I studied. Finally, having defined a variety of concepts, and mapped the range and type of phenomena under examination, relevant quotations were selected from the transcripts to illustrate the emergent typologies of Traveller parenting patterns.

Having completed the analytical process (or, given that one is never entirely satisfied that all aspects have been covered fully, as well as was possible in the available time-scale), the following themes emerged as core elements which assist in understanding the data:

- Age at entering into Travelling
- Routes into Travelling (e.g homelessness, 'drifted', mental health issues, etc.)
- Age at first parenthood
- Whether informant had moved into settled accommodation since becoming a Traveller (reasons for so doing, and experience of being settled)

- Where accommodation has been retained (seasonal Travellers), reasons for so doing
- Academic qualifications and training where known
- Employment undertaken when children resident with/away from informant
- Informant's main income source (e.g work, benefits, festival employment, working partner, etc.)
- *Where known* informant's family background, e.g. chaotic, stable, whether parents' divorced, etc., level of support available from natal family
- *Where known* informant's previous alcohol/drug issues and if still ongoing
- Duration and nature of parenting relationship (unplanned/planned pregnancy, committed cohabitation, casual relationship etc)
- History of relationship, whether commenced Travelling together or were both Travellers, whether partner had drugs, alcohol or psychiatric issues, reason for breakdown of relationship, whether violence, etc.
- Issues around shifting expectations once children born, age of children when relationship ended; whether accommodation or access to vehicle affected timing of relationship breakdown
- Post-separation parenting arrangements: how developed, attitude to other parent (their partner and friends where applicable), how manage as lone parent, whether support from other parent, whether child has ever changed residence or contact patterns
- Role of the community in arranging post-separation parenting and dealing with problematic issues, support during transition etc.
- Whether breaches of contact have occurred, how problems are overcome, and how contact can be made to work, forms of contact used
- Where court cases: reason for court case, details of opponent, attitudes towards proceedings, actions taken by informant, experience of case, lawyers, CWOs, judges, etc.
- Whether parents have reverted back to pre-court case arrangements
- Discourse on identity as Traveller, and parent, 'proper parenting' and 'traveller-appropriate behaviour'
- Gender-specific information: e.g males feel discriminated against in legal proceedings

- Gender-neutral data: e.g males as carers, women as mechanics, etc.

The above themes were then considered in detail to explore similarities and differences between narratives, identities and behaviours. Explanatory categories were then developed, (grounded in the analytical process and observational data gleaned during fieldwork), and a final selection of quotations was undertaken to illustrate themes selected for use. On this latter point, given the limitations of a thesis, many findings have sadly had to be excluded from the current study, but hopefully will be used in future papers on Traveller family behaviours.

Ethical issues

Given the level of engagement with the Travelling community detailed above, some problematic ethical issues inevitably arose, both over the course of the research and since leaving the field (Ellis, 1995; Ryan, undated). As a result of these considerations I have developed an increased awareness of the tensions which can exist between the role of the researcher and the researched community, most specifically the “significance of this relationship in ensuring that research with, in and of minority ethnic communities is ethical” (Ryan, undated, p1). During the fieldwork period it was necessary to retain an awareness of the possible impacts of my presence on site as a social actor (Denzin and Lincoln, 1994; Lofland, 1971; Gilbert, 1992 and below). Since leaving the field, my actions as an advice-giver, interpretation of findings and provision of data may prove equally problematic (see Burr, 2002; Parkin, 2000 for a discussion of the researcher as ‘activist’).

As I adopted a role of ‘participant as observer’, making my presence and research intentions explicit to the Travellers among whom I lived, particular concerns arose of the potential for contamination of data through the provision of information to site companions (‘the Hawthorne effect’ see May, 1997; Gilbert, 1993; Denzin & Lincoln, 1994). In addition, both during fieldwork, and on a number of occasions since my return to a house, I have been contacted by Travellers who have heard of my research and wanted advice on the best ways of dealing with threatened (or actual) legal action by a settled ex-partner, or (in the case of unmarried males) to discuss their legal status vis a vis children.

On a very basic level, ethical dilemmas arise in these situations. As a participant observer, one engages with informants on a daily basis. As these are people who have offered practical support and freely given of their time and narratives, they have, over time become less subjects of research than known individuals (Ellis, 1995; Galimeier, 1991; Adler & Adler, 1993). If a Traveller with whom one has had personal contact or who is presented as a close friend of an informant requests assistance or advice, and the researcher knows that they have the ability to fulfil this requirement, it is arguable that a moral duty exists to aid the person unless it is clear that such aid will cause harm to a third party, or the requested assistance is legally or morally objectionable (see Burr, 2002 and Parkin, 2000 for opposing views on the relative merits of the 'bystander/activist' role).

While my personal stance on the morality of provision of assistance and advice tends towards Burr (who in her paper of 2002 predicates that it is unjustifiable to stand back and watch an injustice take place without attempting to alert either the individuals or the relevant authorities concerned, as to the existence of an alternative route), in my interactions with Travellers seeking advice 'in the field', I often found myself pursuing a middle route. Thus, while it was possible and generally advisable to refer a Traveller onto a solicitor or advice worker for advice on a family law problem, where I *could* provide first stage legal or practical advice, I always fulfilled this role. Inevitably though, by providing such assistance, although I became more accepted into the community as a source of advice (representing an asset to both Travellers, and myself through increasing my social capital (see Chapter 4)), the very real risk of influencing future events occurred.

For example, one Traveller (whom I did not interview) had been advised by his (housed) former partner that he did not have any rights to see their son as they were unmarried. He was disturbed by the woman's threats to stop contact, but had from somewhere obtained information on his legal status as an unmarried father (see Chapter 2) and believed that if he failed to comply with the mother's strictures on time and place of contact that he would have no rights whatsoever to retain a relationship with his child. After discussions with this Traveller although he remained aware of the precarious nature of his legal standing, he had acquired adequate information about techniques which could be used to obtain Parental Responsibility,

should the parenting relationship totally break down. Strictly speaking, as a participant observer I should perhaps not have provided information of this sort to this man, as this will have potentially altered his future parenting relationship through providing him with data which is in direct opposition to the mother's alleged legal advice. However, Ryan (undated), considers that the asymmetrical power relationship which exists between the minority community and the researcher places a greater burden upon the fieldworker than if the parties to the research were working from a position of social parity. Thus Ryan, (in common with Bergen, 1993), recommends that "extra-research support is provided ...where the research interview itself may 'stir up' a potentially harmful reaction [for the participant]"(pp3-4). Given that when devising the research proposal (and seeking access to informants) it was stated that this study would prove of use to Travellers (as well as lawyers, court welfare officers and academics working with this community), I consider that by provision of advice to individual Travellers, I am merely fulfilling [some of] the moral responsibilities inherent in the research relationship through "considering the benefit to the community...including utilising appropriate educational processes and tools" (National Aboriginal Health Strategy Working Party, 1989)

Further to the above points on the degree of moral responsibility which should be assumed towards research participants, as a result of my interviewing, informants would inevitably on occasion experienced a resurgence of negative emotions associated with the topics under discussion (e.g. relationship breakdown and parenting disputes). As referred to above, informants exercised considerable control over the timing of interviews and approaches to some elements of the topic guide. Thus if an interviewee's distress became apparent; having ensured that they were aware that they could terminate the interview at any time, I then checked on the well-being of the informant, whether they wished to continue discussing that particular topic, and also sought to offer some comfort for the distress I may have caused (see Ryan, undated; Bergen, 1993; Sieber & Stanley, 1988; Lee & Renzetti, 1993).

Perhaps surprisingly, (given the extremely personal nature of the interview material and the distress which was on occasion caused), informants appeared overwhelmingly comfortable with having agreed to be interviewed, and moreover, several interviewees later thanked me for providing them with the opportunity to discuss problematic

issues or giving them a 'space' to 'think things through' (see also, Bergen, 1993; Brannen, 1988). This generally positive response to the research probably flowed from a combination of using participant observation methodology (enabling potential interviewees to initially meet me in a social/employment context rather than in a purely research arena) as well as informants' knowledge that they could always re-discuss their interview while I was present on site, or simply 'get word to me through the grapevine' if concerns over confidentiality or a changing parenting situation subsequently arose when we were no longer co-resident. In addition, before, during and after interviews I had freely entered into a discourse on the nature of the research, personal experiences of nomadic life, my family background and expectations and desires relating the research project, analysis, dissemination etc. Thus, in terms of reciprocal disclosure of personal information (which, coupled with informants' ability to observe my employment skills and family life at first hand assisted in developing a 'non-hierarchical relationship', (Oakley, 1981)) I had followed common feminist interview methodologies (Edwards, 1993; Finch 1984; Oakley, 1981) and 'given of myself', a situation which in turn created an atmosphere where the interview often felt more like a friendly conversation between social acquaintances than a formal interview (Roseneil, 1993; Skeggs, 1997). However, despite the relaxed atmosphere which often prevailed during interviews, to the best of my ability I ensured that the informant was at all times clear that they were participating in a data gathering process, thus enabling them to "co-produce the research" (Fielding, 1993; Van Maanen; 1982) while limiting my opportunity to (however unconsciously) exploit the setting and gain information which the informant might later regret disclosing. Thus, I consider that I have attempted to address the specific ethical concerns which arise when researching marginalized communities by seeking to ensure that principles of equity and responsibility are embedded throughout the research process

Conclusion

This chapter has attempted to outline the key methodologies, research issues and theoretical underpinnings to the study of Travellers' post-separation parenting arrangements presented in the remainder of this thesis. While it is difficult to satisfactorily resolve all of the dilemmas of fieldwork design and praxis, access to informants, analysis and dissemination of findings while ensuring that ethical

considerations remain paramount; I have wherever possible attempted to ensure that the voices of members of the Travelling community are heard within this study, albeit filtering their explanations and behaviours through an analytical framework. While undertaking this process I have done my best to fulfil the moral obligations and duties, which I believe are the responsibility of the researcher - ethical considerations which were brought into prominent focus by the explicit undertakings and implicit social bonds which were mutually agreed during the fieldwork stage of the research.

While it is yet to be proved whether this study will fulfil the claims made in the research proposal (that it would be of interest and use to legal advisors and academics working 'on' and 'with' Travellers); narratives were 'taken' on the understanding that the data gathered would be used to assist members of the Travelling community. As such, while I did on occasion provide advice and assistance to Travellers, community workers and solicitors during fieldwork, as well as during the writing-up period, (see above), I would defend any allegations of 'social activism' contaminating the study (Burr, 2002), by reference to my commitment to undertaking collaborative research with members of this marginalized community (Ryan, undated; National Aboriginal Health Strategy Working Party, 1989) and my 'referral on' of potential informants. Nonetheless, as a result of the advice giving process the dissemination of project findings has to some extent pre-empted the completed study; potentially altering future case outcomes through 'guiding' some Travellers and their advisors in a particular legal direction. Thus, the outcomes of feminist oriented, co-operative research methodologies are not unproblematic and are clearly open to debate as to their 'scientific validity' (Bulmer, 1982).

However, while this chapter does not solve the dilemmas faced by researchers working with 'sensitive topics' and 'marginalised communities', I hope that it can at least frame the study of 'Traveller family practices' presented in the empirical section of this thesis within ethical and practical parameters.

SECTION TWO

CHAPTER 4

TRAVELLING PEOPLE: AN INTRODUCTION TO THE SAMPLE

Introduction

In order to set the scene for the following empirical data chapters, it is important to understand the range of family structures, and the continuum of Traveller identities found among people 'on the road'. In this chapter we therefore introduce the sample, (both 'court' and 'non court' cases) and consider these individuals' attitudes towards parenting, and 'being a Traveller'. While a number of 'court' informants who feature in this section of the thesis have perhaps been unluckier than some Travellers when it comes to arranging their post separation parenting relationships, and the 'non-court' informants who have come to their own arrangements have possibly been fortunate in the ways in which their family arrangements have worked out, in my experience, the twenty three narratives collected for this research, are not extraordinary. In essence, therefore, while individual experience varies, I would assert that the range of family *patterns*, and parenting *attitudes* expressed by these individuals are not atypical of the narratives of many New Traveller parents, (and see Earle et. al., 1994; Lowe & Shaw, 1993, for supporting examples, and discussion on Traveller personal relationships).

For the purposes of the following analysis however, it is necessary to consider whether acceptance of, and tolerance towards, particular family structures (and parenting behaviours) are a fundamental aspect of Traveller identity. Hirschi (1969) argued that an individual's identity as a member of a social group is formed through a) their commitment to a group (whether it is a neighbourhood organisation, friendship network or sub-cultural movement), b) involvement in a particular community, and c) belief in the norms of the particular society to which they adhere. Given the need for a social group to function efficiently and thus maximise its chance of survival over time, almost by definition, the social norms which govern any given community, must include some set of mechanisms which ensure social control over members' behaviour (Sumner, 1906). Thus, by believing (or at least adhering to) the norms of a social group (the *pass* to community membership), an individual can be held to be engaging in a social contract, whereby they agree to their particular community exercising some form of control over their behaviour (the *price* of membership of a society). Moreover, the greater the degree of internalisation of the

norms and ideologies of a given society, the higher the level of social control exercised by the community over its constituent members (Etzioni, 1964), as to challenge the norms of the community would potentially involve deconstructing one's entire identity and relationships with other members of that society.

Thus, if it can be demonstrated that within the NT community (or at least that section of Traveller society dealt with in this thesis) certain moral and social expectations exist in relation to parenting and personal relationships, then, the question arises of whether acting in a manner which is *outside* of prescribed norms affects an individual's standing within the nomadic community, and to what extent 'non-normative' behaviour exposes that individual to sanctions or other methods of social control. If 'Traveller-appropriate' parenting behaviours can be identified within the sample, adherence to these child-rearing patterns may be closely entwined with identity and community, and as such, may be fundamental to comprehending Traveller family practices. Moreover, if Travellers behave on occasion in a manner which is outside of the 'moral order' hypothesised, then how and why are 'non-Traveller-appropriate' behaviours validated, given that communities (on occasion) have to redefine principles of social control in order to accept breaches of moral codes and thus avoid the loss of significant numbers of their population, faith community or membership, given changes in expectations and values (Wardak, 2000). Alternatively, where community sanctions are regarded as a justifiable response to a breach of the social order, what control mechanisms come into play (Bredemier & Stephenson, 1962), and what are the impacts of such techniques on the members of the Travelling community subject to such penalties (Pollinger & Pollinger, 1972; Williams, 2001; Schachter, 1951)? Thus, within this chapter, hypotheses will be presented (and developed in subsequent empirical chapters) which consider the role of the nomadic community in 'controlling' certain parenting behaviours and sustaining and supporting particular forms of relationships, through the dual mechanisms of *access* to social capital (Bourdieu 1979, 1989) and the *withdrawal* of support when a person acquires a 'bad reputation' through a sustained breach of community norms (Wardak, 2000; Finch, 1989).

As a precursor to an in-depth discussion on 'court' and 'own arrangement' parenting arrangements, this Chapter therefore has the following aims: to act as an introduction

to the sample, (enabling the reader to gain some comprehension of *these* Travellers' family situations, and personal circumstances); to compare legal and self-definitions of Traveller identity; and consider how Travellers' attitudes to use of the law may be culturally mediated in a manner which impacts on their use of family proceedings. Finally, within this chapter we also identify the three groups of informants ('court initiators', discussed in chapter 5; 'court responders' encountered in chapter 6 and the 'own arrangement' parents, considered in chapter 7)ⁱ.

The Sample

The interview sample (Table 4.1, below) consists of twenty three individuals, all of whom are parents. Although the majority of informants are full-time Travellers, some interviewees retain a settled base from which they Travel seasonally, in a manner akin to many housed 'Gypsy-Travellers' (Thomas & Campbell, 1992; Kenrick & Clark, 1999). Despite their preference for housing during the winter months, the individuals whom I have included in the category of 'seasonal Travellers' retain a 'Traveller identity' and are recognised as members of the nomadic community by other NTs (see '*continuum of Traveller identities*' below, for an fuller exposition of this concept). While these informants' nomadic identity may not be as strong as is found among 'full-time' Travellers (perhaps as a result of seasonal Travellers' closeness to housed communities for periods of several months of the year, resulting in 'settled behaviours' such as regular waged employment and sometimes limited contact with Travellers during the winter periods) these 'seasonal Traveller' informants still occupy a position on the 'Traveller' side of the dyad of sedentary/nomadic peoples.

As can be seen from Table 4.1 (below), of the seven 'seasonal' Travellers, three have Travelled on a full-time basis (i.e. have had no form of accommodation or residence other than their vehicle) for periods of several years. A further two informants in this category (Polly and Lucy), have also Travelled on a full-time basis, albeit only for a few months when homeless and waiting to secure a stable base. Thus, slippage

ⁱ 'Initiators' are the sub-set of parents who engaged with the family court system on a voluntary basis, as opposed to reacting to legal proceedings brought by an opposing party. 'Responders' became involved in legal proceedings initiated by a former partner or a third party who sought residence of a child or to otherwise remove the child from a parent's care. 'Own arrangements' indicates informants who reached 'informal' residence and/or contact agreements with their former partner without recourse to legal proceedings.

Table 4.1 The Traveller Sample

NAME	GENDER	AGE	CURRENTLY F/T or SEASONAL TRAVELLER	NO. OF YEARS AS TRAVELLER (changes in nomadic status shown in parentheses)
ANDY	M	32	F/T	5 (‘settled’ for 11 yrs between two periods of nomadism)
ASH	M	34	Seasonal	10 (inc. 5 yrs f/t Travelling)
DIGGER	M	38	F/T	4+
DON	M	46	Seasonal	15+ (inc.8 yrs f/t Travelling)
GEMMA	F	33	Seasonal	5
JAMMY	F	39	F/T	18+
JILL	F	33	F/T	11
JON	M	27	F/T	6
JOSH	M	24	Seasonal	18 months
JULIE	F	35	F/T	12 (‘settled’ for a total of 6 yrs, with 3 periods of f/t Travelling)
KATIE	F	34	F/T	11
KATYA	F	30	F/T	12
LUCY	F	48	Seasonal	10
MAX	M	29	F/T	12
MICHAEL	M	34	F/T	8 (inc. 5 yrs seasonal Travel)
MICK	M	43	F/T	20+
NESTA	F	30	F/T	9
PHILLIP	M	41	F/T	10+ (inc. 2 yrs seasonal Travel)
POLLY	F	31	Seasonal	7
REBECCA	F	37	F/T	3
SU	F	29	F/T	9 (inc. 5 yrs seasonal Travel)
TERESA	F	29	Seasonal	10 (inc. 8 yrs f/t Travelling)
ZELLA	F	35	F/T	17

between categories of Traveller (i.e full time and seasonal), can be seen to occur fairly frequently. In this way, it is once again possible to recognise behavioural similarities between NTs and 'traditional' Gypsy Travellers who also will often move into housing and then back 'on the road' on either a seasonal or permanent basis (Kenrick & Clark, 1999; Davies, 1987), sometime making this transition on a number of occasions (Thomas & Campbell, 1992; Hopkinson, Ingram & Wishart, 2001).

Further to this point, two informants (Andy and Julie) have both spent significant periods of time living in houses, returning to Travelling some years after their initial foray into nomadism. Interestingly both of these individuals 'settled' as a result of personal relationships and responsibilities, and during their years in housing remained adamant that they 'missed' Travelling and planned to return to living on the road, once their circumstances had altered (see Chapters Six and Seven). These interviewees' narratives therefore raise further parallels with data relating to 'settled' Traveller-Gypsies who frequently indicate a desire to recommence Travelling even after many years of house dwelling (Thomas & Campbell, 1992). Thus findings from both 'New' and 'Traditional' Traveller research indicate a link between the *concept* of nomadism and a core 'Traveller' identity, an idea considered in more detail later in this chapter.

By far the largest group of informants however, are those who have been full-time Travellers since first becoming nomadic (eleven cases). Conversely, seasonal Travellers who have always retained a house base consist of the smallest category of interviewees (Gemma and Josh), supporting interview data which indicates that Travellers tend to become less concerned about having access to accommodation the longer the period of time they spend 'living out'. While due to limitations on the length of this thesis it has not proved possible to use this particular data in the context of this study, it is planned to publish on the subject of identity and movement in and out of housing, at some point in the future.

The duration of the sample's Travelling history (averaging ten years) is also of note, as this figure tends to disprove the oft-suggested comment that Travelling is a 'stage' that some sedentary people go through, returning to settled housing after two or three years (see Greenfields, 1999; thesis Introduction, Murdoch, 1994; etc.). Arising from

this point, the age at which informants' became nomadic is also of interest, and although within this paper, I do not present an analysis of duration of Travelling by strength of identity, (see below for discussion on identity) correlations can be found in terms of commitment to living a fully nomadic life and the age at which informants first 'went on the road'; with those individuals with a 'strong' identity tending to commence Travelling while in their teens, and informants with a 'weaker' identity generally becoming nomadic in their mid twenties. It is therefore arguable that the earlier the age at which an individual becomes nomadic, and the longer they remain within the Travelling community, the more likely they are to have a 'strong' nomadic identity, and adhere most closely to the ideological constructs discussed under Travellers' self-definition (and see too, Wardak, 2000; Hirschi, 1969).

Of particular interest, is the fact that three informants first became nomadic when in their thirties, having been married with children prior to their first encounter with Travellers. These individuals (Don, Rebecca and Lucy) all became involved in legal proceedings over their children as a result of former partners' hostility towards their change of lifestyle. The narratives of these particular informants are presented in Chapters Five and Six allowing for consideration of the impact on parenting relationships of major lifestyle changes.

Having briefly introduced the sample, it is now time to consider the households in which these Travellers reside, as comprehension of the narratives which follow rely upon an understanding of the range of living patterns found among this community. Table 4.2 (below) provides a snap-shot of informants' households at the point of interview. Informants' living arrangements vary considerably (see column 2) with interviewees ranging from males living in single person households, to lone parents of both genders living with their children, and reconstituted families (where a parent has re-partnered and the current partner co-resides with the family unit and takes a considerable level of day-to-day responsibility for childcare and other domestic and family related chores). Interestingly the sample did not include any female non-resident parents living in single person households, although individual narratives (and observations) do reveal the existence of such household units among the NT community.

Informants' residence and contact arrangements (considered in detail in the empirical chapters) vary from a child having *no contact* with one parent to full *shared parenting*, while a number of interviewees practice simple *staying contact* (where a child spends a few days visiting the non-resident parent in their home) on a fairly regular basis. Each informant (listed alphabetically in column one) is tabulated alongside other members of their household. Where a child lives with the informant in a shared parenting arrangement this is indicated in column two. Where possible an indication is given of the amount of time a child spends with the informant (i.e. child lives with interviewee for approximately half of the time). In columns three and four, data relating to children's ages and gender is provided, as these facts may have implications for patterns of residence and contact, children's level of autonomy, etc. In addition, where an informant has children residing in another household (e.g. Digger, Polly); co-parents a non-resident non-related child (e.g. Zella), or has grown-up children who have left home, this is indicated in the final column of Table 4.2 as family dynamics and personal relationships (as well as NTs ability to access paid employment, social support networks etc) depend upon *all* children of the family being included in the equation, as household structures may alter as a result of the necessity to change the level of parenting support provided.

Examination of table 4.2 shows that nine female and three male informants are lone parents. A further four informants (Ash, Jill, Polly and Mick) are engaged in shared parenting arrangements, a residence pattern which is considered in more detail in subsequent chapters. In addition, four Travellers (Jammy, Julie, Polly & Zella) care for, or have non-resident children who are engaged in 'family of choice' relationships, where no blood tie exists between some members of a household who cohabit as family members. Finally, a further six informants co-reside in step-parenting relationships where the couple do not have children in common. Thus it can be seen that a high percentage of the sample are involved in 'non-normative' household structures, supporting the supposition that NT communities are likely to accept such complex personal arrangements as commonplace. Moreover, given the prevalence of 'blended households' in the NT context, it can be argued that any individual who is

Table 4.2 Informants' current household composition

Name	Residents in Household: Informant (I) +	No./Gender of Informant's Children	Age of child(ren)	Child elsewhere? Reason?
ANDY	I + child	1 (f)	19 mnths	-
ASH	I + son (½ time)	1 (m)	8 yrs	-
DIGGER	I + Ptnr + ptnr's children	4 (f), 1 (m)	19, 14, 9 yrs, 18 mnths (f), 7 yrs (m)	All I's children live with their mothers (5 different mothers)
DON	I lives in shared house with oldest daughter + other NTs	2 (f), 1 (m)	24, 8 yrs (f), 24 yrs (m)	Son left home to Travel independently. Younger daughter lives with mother
GEMMA	I + child (does not cohabit with ptnr)	1 (f)	3 yrs	-
JAMMY	I + 3 children	3 (f), 3 (m)	14, 10, 6 yrs (f) 16, 11, 9 yrs (m)	Oldest daughter Traveller, resides separate site. Oldest son Traveller, left home, residing on same site. 11 yr old son lives with father
JILL	I + children + ptnr (no children in common)	3 (m), 1 (f)	11, 9, 8 yrs (m) 5 yrs (f)	Boys live with their father half the time.
JON	I + Ptnr + ptnr's 3 children	1 (f)	4 yrs	Daughter lives with her mother
JOSH	I	1(m), 1 (f)	4 yrs(m), 2 yrs (f)	children live with mother on f/t basis
JULIE	I + daughters + Ptnr (no children In common)	2 (f), 1 (m)	12, 3 yrs (f) 16 yrs (m)	Son living independently with other Travellers
KATIE	I + children	1 (f), 1 (m)	7 yrs (f), 2 yrs (m)	-
KATYA	I + children	3 (m)	7 & 5yrs, 18 mnth	-
LUCY	I + 2 youngest boys	3 (m), 2 (f)	22, 16, 13 yrs (m) 24, 20 yrs (f)	Older children left Home
MAX	I + (on occasion) Ptnr + children when relationship good	1 (m), 1 (f)	30 mnths (m) 18 mnths (f)	children live with mother
MICHAEL	I + children	1 (m), 1 (f)	14 yrs (m), 12 (f)	-
MICK	I + daughter (1/2 time)	1 (m), 1 (f)	13 yrs (m) 2yrs (f)	Son lives with mother
NESTA	I + children	2 (f)	7 & 5 yrs	-
PHILLIP	I	1 (m)	8 yrs	Son lives with mother
POLLY	I + 14 & 8 yr old children, ptnr + ptnr's 8 yr old daughter	2 (m), 2 (f)	16 & 8 yrs (m) 14 & 11 yrs (f)	16 yr old son live with maternal g'parents. 11 yr old girl lives with her father.
REBECCA	I + children	1 (m), 1 (f)	10 (m), 8 yrs (f)	-
SU	I + children + ptnr (ptnr has own accom)	3(f), 1 (m)	12, 10, 9 yrs (f) 3 yrs (m)	-
TERESA	I + child	1 (f)	4 yrs	-
ZELLA	I + children	1(f), 1 (m)	7 yrs (f), 3 yrs (m)	shares parenting of ex-ptnr's 10 yr old son

unwilling to (at least publicly) acknowledge that such domestic arrangements as constituting 'real families' (and I include 'families of choice' within this definition), would be in breach of the NT community's social code, as failure to accept the legitimacy of non-normative families would mean acknowledging a hierarchy of interpersonal relationships.

Taken to the logical extreme, commitment to a structured and hierarchical schema of family patterns would place formal marriage and 'legitimate' children above 'illegitimate' offspring born into cohabiting or casual relationships (cf. Dennis & Erdos, 1993; Morgan, 1995) and would not permit that step-parenting relationships can involve as deep a degree of affection and life-long responsibility towards non-blood kin as to natural children (Ferri, 1984; Batchelor, Dimmock & Smith, 1994). Given that NTs only rarely formally marry and (see pilot study, empirical chapters, Webster, 1999 and Earle et. al., 1994) do not appear to regard the presence of children from previous relationships as a bar to re-partnering, it is self-evident that to conform to the social norms of this society (Wardak, 2000; Hirschi, 1969) (and thus avoid the consequences of deviance such as ostracism (Williams, 2001) resulting from non-adherence to norms of behaviour and ideology (Etzioni, 1964)) NTs *must* be tolerant of a variety of household and interpersonal arrangements or reconsider their membership of the Traveller community in the light of their "[dis]belief in the norms" (Hirschi, 1969). Ergo, I would argue that (within certain defined boundaries, see below) 'tolerance' towards other Travellers personal relationships is a core aspect of NT identity.

While the concept of identity and ideology are considered in more detail later in this chapter (and see also Appendix 5) interview data is strongly suggestive of the proposition that informants with a long history of Travelling, and a 'strong' Traveller identity appear more likely to be lone parents than those interviewees with a 'weaker' identity. These findings indicate perhaps that adherence to 'Traveller ideology', possession of a high degree of social capital and 'strong' Traveller identity (see below) enables a lone parent to contemplate remaining nomadic more easily than an individual who feels less closely involved with the Traveller community. As will be explored in more depth in chapter seven, lone parent Travellers consider the nature of the nomadic community, and level of support available to them, a significant

advantage of their lifestyle when contemplating the practical aspects of moving into housing versus remaining nomadic.

“I’ve not done it on my own in a house [as lone parent] but I don’t think I could, I could not be that isolated...you know it’s not just the physical support ‘cos the physical side – there’s no problem to it living like this, but it’s the emotional support isn’t it, of you are not alone, you know, and you can walk out of your trailer and go “aaagh I’m going to kill him’ and you can walk off and somebody else will step in....you know what I mean, there’s a lot of single women on the road, there’s a lot and it’s good, it’s good for the kids” **ZELLA full-time Traveller (‘strong’ Traveller identity)**

Further to the above references to the value of close community ties, two informants (Julie and Jammy) have some children living at home while their young teenagers have moved to live on site with other Travellers (see chapter seven for a discussion of youth and autonomy). While in the ‘mainstream’ world, parents are likely to express concern over their children leaving home at such an early age, within the nomadic community, enough confidence in the social support network exists (particularly where a family has been Travelling for many years) that informants appeared surprised when I commented on the age at which the young people had set up their own homes. Given that it was clear that the informants are caring parents, and moreover that they are providing financial support to their teenage children, these findings tend to support the proposition that as long as they remain within the Traveller community, enabling their actions to be observed and information referred back to their parents and adult friends, children are treated as competent to make major decisions at an early age. Thus the Travelling community (or at least the sample accessed for the purposes of this research) retains a ‘watching brief’ on its young independent members, stepping in with assistance or advice when necessary.

Finally, and before moving on to consider the nature of Traveller society and nomadic identity, it is worth noting that very few informants reside in a single household, reflecting the sociable nature of nomadic life, ease of re-partnering and expectations that families will consist of children and adults. Indeed, within Traveller society, it is

fairly unusual to encounter couples without children if the relationship has lasted for several years, or indeed, single adults who are not engaged in some network of childcare responsibilities. Thus, it can be claimed that interwoven relationships between members of the community (both adult and children) constitute a major aspect of Traveller identity, enabling recognition of an individual as a social being.

But, *being* a Traveller is more complex role than it might at first appear. Thus, in order for us to examine family relationships within the multi-faceted construct of a 'closed' society (see Wardak, 2000) it is necessary to unpack the elements of nomadic identity and consider what is actually involved in community membership.

The Legal Definition of a Traveller

Given that New Travellers have a fairly recent history (Kenrick & Clark, 1994; Earle, et. al, 1994) and moreover, incorporate a changing personnel, with people continually becoming nomadic or at times ceasing to Travel for greater or lesser periods of time, or even settling permanently; how do people recognise themselves (and others) as Travellers? Is *being* a Traveller dependent on living a fully nomadic life, or can a person identify herself as a Traveller when she currently retains a stable house base (albeit spending six or seven months of the year living in a vehicle), although when living out, using identical practices to full-time Travellers in order to sustain the physical, emotional and economic well-being of her family? Further, at what point is a person a Traveller by self-ascription or by identification by other Travellers, and yet is not recognised as such in law? This section of the chapter, commencing with a review of relevant case law and statutory provision, sets out to explore these issues further.

The law fails to provide a precise description of a Traveller, clarifying only the definition of a 'Gypsy' (although this formulation has been arrived at for very specific purposes relating to site access and planning issues). Although Gypsies *may* also be an ethnic minority when they come from an identifiable group defined with reference to their ethnic origins, long shared history and cultural patterns (*Commission for Racial Equality v Dutton [1989]*) 'Travellers' refers to all people who lead a nomadic life. An attempt was made in *Dutton* to argue that the term Traveller is synonymous with Gypsy and therefore all nomadic people should be protected from direct or

indirect discrimination, but this plea was rejected in court, with the narrower ethnic definition finding favour when defining a group subject to discrimination. In a more recent case (*P. O'Leary & Others v Allied Domecq & Others [2000]*) the High Court found that Irish Travellers also fulfilled the criteria for recognition as a minority ethnic community and accordingly members of this community are now afforded the same protection under the Race Relations Act 1976 (as amended by the Race Relations (Amendment) Act 2000) as 'ethnic Gypsies'. At present however, other nomadic groups such as Welsh, Scottish and New Travellers are not recognised (in law), as possessing unique enough social characteristics to render them an identifiable minority.

We therefore have an anomalous situation where two forms of 'Gypsy' exist in law. Those Travellers who are held to be 'Gypsies' by reason of lifestyle (regardless of ethnic origin), and those Gypsies (including Irish Travellers) who are such by virtue of membership of an ethnic group. The implications for social identity of defining Irish Travellers as Gypsies (given the complex and often difficult relationships which exist between Romanichal and Irish Travellers) are self-evident and intriguing but space precludes exploring this issue further at this stage. However, it is noteworthy that at least one recent court case refers to individuals as both 'Gypsies' and of 'Irish Traveller origin' (*Wrexham County Borough v National Assembly for Wales [2002]*) indicating that the judiciary may now routinely address the issues of ascribed (ethnic) identity when considering if an applicant has achieved 'Gypsy' status.

In this thesis however, we are dealing with a number of people who may fall outside of the strict terms of *both* legal definitions. Nonetheless, it is perhaps a useful starting point to refer to the definition of a (non-ethnic) 'Gypsy' under the terms of the now repealed *Caravan Sites Act 1968, Part III S.16*. Within this legislation Gypsies are defined as "persons of nomadic habit of life, whatever their race or origin" and so it is self evident that New Travellers can fall within this legal definition for the purposes of planning and site residence cases. But, at what point does a person either acquire or lose this 'Gypsy' status? For a number of years non ethnic Gypsies (e.g. Irish, Scottish and English Travellers with a family history of Travelling) were included within this definition, but it was not until 1986 in the case of *Capstick and Others* that it was judicially accepted that where "the defendants had adopted, and intended to

continue with a travelling life-style *[although]... none of [them] came from families with a tradition of Travelling* but they had adopted such a life for various reasons, e.g. force of circumstances, absence of settled accommodation and attraction to the way of life” [emphasis added], Gypsy status accrued. In 1994 this definition was further refined in case law (*R v South Hamms District Council ex parte Gibb*) and it was held, that to claim Gypsy status there had to be some recognisable connection between “travelling and the means whereby the persons concerned made or sought their livelihood”. Although the narrowing of this definition will inevitably exclude some Travellers from legal recognition, in a sense, so far so good, as legally a person who is working, or is seeking employment whilst living a nomadic life can be a ‘Gypsy’.

We arrive therefore, at a point where a person who travels for work related purposes, whether or not they were born into a Travelling family or have adopted the lifestyle for economic or other purposes, may be a Gypsy. But before the law is seen as providing a generous and simplistic definition, it must also be considered that the period of time spent as a nomad is taken into account in deciding at what point a person becomes a Gypsy, and indeed whether they can lose that status.

Avon County Council in seeking to clarify this matter established that “New Travellers had to travel for at least two years before the Council would class them as Gypsies” (Kenrick, in Morris & Clements, 1999 p67) and conversely, cases have arisen where individuals with impeccably Romany antecedents, whose families have Travelled for generations, and who have themselves Travelled for much of their lives, have lost their legal status as Gypsies when they have ceased to Travel for a period of several years. (*Horsham District Council v Secretary of State and Giles [1989]*) However, other legal precedents (i.e. *Cuss v Secretary of State and Wychavon District Council [1991]*) establish that so long as a person travels seasonally (for as little as two months a year in *Dunn v Maidstone and Secretary of State [1996]*) in connection with activities which have an economic justification, as well as fulfilling a desire to be nomadic, then they can retain their ‘Gypsy’ status once this standing has been established. Even where a person loses their Gypsy status “if the Cuss family were to take up again even just seasonal Travelling, the status could be regained” (see *Cuss* above, per Vandermeer, J.)

Finally, if a nomadic person settles in connection with the illness of the applicant or a close family member then they do not lose their status as a Gypsy as long as there is an intention to resume Travelling again in the future (*R v Shropshire County Council ex parte Bungay* (1990)). The fact that the legal system has recognised the importance of intent and constrained choice as a factor in someone's status as a Gypsy, is of critical importance to the following analysis of the constitution of Traveller identity. Thus, for example, one informant in this study (Andy) who had been housed for eleven years whilst nursing his terminally ill wife, perceived of himself as a Traveller throughout this time, despite the fact that he did not Travel. Andy's narrative indicates that his perceptions of his identity were upheld by his friends and the nomadic community, and in fact the informant did return to Travelling after his wife's death. In such circumstances therefore, not only other Travellers, but also the law, recognises the validity of an informant's subjective identification as a member of the Travelling community, as long as nomadism or intent to Travel exists.

Travellers' 'Self-Ascription'

So much for the legal definition of a Gypsy. While the legal framework provides obvious pointers for defining Travellers, in particular setting fairly transferable parameters around the ways in which a person gradually loses their status as such, I would argue that the process of *becoming* a Traveller is a more multi-faceted, and at times nebulous, evolution than the law would appear to recognise.

It has often been said by New Travellers that the media and external observers, are 'obsessed' with attempting to identify them by (usually negative constructions of) appearance (Earle et. al., 1994 p46; Hetherington, 1996; Lowe & Shaw, 1993). Similar attempts to identify this group are framed in terms of rejection of class heterogeneity and hostility towards their 'mundane' roots (Hetherington, Chapter 4, 1999) a search for 'authenticity' by adoption of an amalgam of 'ethnicities' (Hetherington, 1998), and as the descendents of the 'hippies' of the 1960s, albeit 'hardened' by the influx of young homeless people after decades of Conservative rule and establishment clamp-downs on alternative lifestyles (Kenrick & Clark, 2000; Webster, 1997).

Whilst the above attempts to classify this group focus to a large extent on *external* definitions of Travellers, Webster (1999) is in my opinion, nearest to the truth when she refers to a internalised shared identity generated by 'community', non-judgmentalism (at least where 'consenting adults', recreational substance use and attitudes to employment are concerned – but see empirical chapters for 'community control' discussions relating to other forms of morality) and collective responsibility. While broadly agreeing with her opinions, I would however, suggest that the above ideological aspects of Travelling are in part a practical response to cohabitation in physically difficult circumstances whilst subject to the additional pressures of popular demonisation (FFT, 1996; Murdoch, 1994; Martin, 2002) and, (as Webster makes clear), are further dependent upon the type of residents found on a particular site.

But, 'community' and 'non-judgmentalism' while central tenets of Traveller life are not unknown among 'alternative' non-Travellers. So what constitutes the shift from being an individual with similar values, who perhaps attends festivals and has acquaintances amongst Travellers, to a person who *is* a Traveller? Is it as simple as buying a vehicle or a trailer and spending some weeks living out, (which would then problematise my reasons for excluding certain people from the sample)? Is it leaving settled housing on a permanent basis, (which once again excludes seasonal Travellers who are accepted as valid members of the community - see Earle et.al. 1994, p44; Auckland, 2000)? Or is the length of time for which a person Travels on either a full or part time basis?

This final issue, whilst perhaps having some bearing on the identities of certain long-term Travellers, does not however fully explain when a person achieves the ascribed identity of 'Traveller'; as to accept the 'length of time Travelling' definition would then create a situation where a legalistic construct is represented as subjective reality, a fairly obviously meaningless concept for most Travellers, as an individual will usually be accepted *as* a Traveller *by* Travellers within a far shorter time-scale than the suggested two years seized upon by Avon County Council (above). Moreover, an individual does not have to have Travelled on a full-time basis, or be currently Travelling the whole year round, to be identified as a member of this community (Auckland, 2000). Indeed a number of informants in this study had moved seamlessly from the status of seasonal Traveller to full-time Traveller and back to seasonal

Traveller at different points in their lives (see Table 4.1), others still had Travelled seasonally for many years, retaining a house base they live in for a few months of the year, but *they were all nonetheless Travellers, accepted as such by members of the community*, even, in two cases when female informants referred to themselves as 'camping' rather than Travelling, seemingly identifying their seasonal nomadism of several years standing as an extended working holiday ⁱⁱ.

While the theme of what 'makes' a Traveller, and public recognition of attainment of this identity were not explicitly explored in interviews, several informants referred to the fact that the act of buying a vehicle and living outside does not necessarily confer Traveller status on an individual, suggesting that it is necessary to go further than possessing the trappings of 'Travellerdom', dressing in a particular manner, or knowing Travellers, to *be* a Traveller.

When discussing the reasons for relationship breakdown (see empirical chapters for detailed analysis) a number of male informants referred to their ex-partners in a manner which indicated that despite their appearance, or apparent adherence to a set of 'Traveller appropriate' values (see below) that the women were *trying out the role* of a Traveller, adopting elements of Traveller lifestyle and social interactions, while essentially wishing to remain house-dwelling.

"we met at a Festival yeah, and she seemed like she was really into it when we got together, but it became increasingly evident that she wasn't actually at all" **JON**

"it was like she still lived in a house, but like she was into living on the road, but like not, you know what I mean" **DIGGER**

ⁱⁱ It is of interest however, that in a number of pieces of legislation (see *Home Office & DETR Good Practice Guide, October 1998*) reference is made to 'unauthorised camping' when Travellers inhabit an unauthorised site, so perhaps these informants' self-definition is not merely a means of disassociating themselves from other Travellers (possibly as protective cover during their periods in a house, perhaps in an attempt to avoid the typically negative attitudes expounded against New Travellers) but also a knowing reference to official attitudes to nomadic lifestyles.

"she was actually living in somebody's garden in a vehicle... fairly static...."

MICHAEL

so was she a Traveller?

"no, no, not as – not in the sense of actually going and doing things" **MICHAEL**

The above quotations suggest that a nebulous identifying quality exists, which enables Travellers to recognise one another in ways which go beyond mere appearance or adherence to a set of beliefs. Discourse on key identifying characteristics of Travellers repeatedly focused on an individual's degree of attachment to the nomadic existence, although coupled with a grounded sense of reality as to the practicalities of living on the road. Thus, it is not enough for a person to say "I am a Traveller" when they have spent four or six weeks living out, nor is it merely a case of a person surviving their first winter outside, (despite the fact that this can be a harsh and testing time which sets or destroys many people's determination to Travel). This conceptualisation of core identity, can best be summed up by the oft-used expression "Travelling is a *state of mind*" [emphasis added] (see Earle, et. al., 1994, p.45) a phrase which is striking in its closeness to the legal concept of 'domicile', a place where one retains a permanent home by demonstrating an intention to remain in that place, even if physically resident in another location.

By extending the analogy between Travelling and 'domicile', for the purposes of this thesis, the definition of a Traveller is someone who (whether or not they are currently Travelling) has established themselves as a Traveller through practical experience, retains the mental element of attachment to Travelling, and demonstrates an intent to remain nomadic. If an individual fulfils these elements, then that person will be recognised as a member of the Travelling community. The fact that nomadism may be curtailed by family responsibilities such as care of a sick relative, or the requirement to remain in a house for the purposes of children's education, a court case or even (for some people) the British climate; does not remove an individual's ascribed identity as a Traveller. Thus the individual who described their response to winter settlement in the following terms, epitomises the core Traveller identity: "it's when it's Spring and it's almost painful not to be moving" (private communication from long-term Traveller) Conversely, failure to retain, or engage with, the mental element of

Travelling would mean that a person is *behaving* as a Traveller rather than *being* a Traveller, in the way suggested by the informants above.

Interviewees' discourse on site life and family matters raised a number of key issues relating to expected (and condoned) behaviour and attitudes. These identifying markers went beyond the issue of an individual's psychological attachment to a nomadic life, and created a framework for recognising a Traveller as adhering to a specific moral code. By noting the prevalence and range of ethical behaviours referred to by informants, it has proved possible to identify and map out an ideology of 'Traveller-appropriate' beliefs (albeit that *behaviours* may, in practice vary from the ideal form). Accordingly, whilst an individual may be a Traveller by virtue of full-time nomadism of several years standing, informants' narratives indicated that to be recognised as a member of the *community*, an individual would subscribe to certain tenets of a Travelling ideology. Greater or lesser identification with the doctrine of Traveller-appropriate behaviours and beliefs would then place a person along a continuum of Traveller identities (see below). Taking this model as our starting point, we may now attempt to define a core ideological structure around which NT identities (at least within this sample) are situated. Van Dijk (1998) defines an ideology as a:

"representation of who we are, what we stand for, what our values are and what our relationships are with other groups, in particular our enemies or opponents, that is, those who oppose what we stand for, threaten our interests, and prevent us from equal access to social resources and human rights.. in other words, an ideology is a self-serving schema for the representation of Us and Them as social groups"
(p69)

Thus, put crudely, the core Traveller ideology can be stated as:

"'We' (Travellers) stand for (amongst other things): freedom, tolerance and respect for individuals. Our community values include non-judgmentalism, placing a high value on young people and children, recognising individuals' right to autonomy, and respecting innovation and hard work whilst engaging in relationships of reciprocal assistance

which benefit all sectors of our community, including the vulnerable. Our relationships with 'Them' (settled people and particularly organs of the State) are often difficult due to harsh and oppressive laws, negative media representations and ignorance of our lifestyle. Thus we often attempt to avoid interaction with legal regimes which fail to comprehend our community values, and whose intervention in our lives may worsen our situation on an individual or collective basis. We wish to be left in peace to work and raise our families in a manner not dissimilar to any other member of society. We often find it problematic integrating into wider society, as lack of access to resources (sites, education, health care etc.) and wide-spread prejudice against us, prevents us from doing so whilst retaining our culture and lifestyle".

While this is of necessity a basic, and no doubt incomplete, attempt at an ideological framework, it is the point of reference from which adherence to Traveller-appropriate beliefs (for the purposes of *this* study relating to the *particular* sample interviewed) will be viewed. While adherence to a core ideology is fundamental in establishing a person as a member of the community, on a deeper level, an individual's reputation and ability to call on various forms of capital situates them *within* the community.

Reputation and Capital in the Traveller Context

Bourdieu (1979, 1989a, 1989b, 1990) suggests that class (in this context, social) position is based upon various forms of capital, which in combination, confer power, profit and strength on an individual within society. He argues that the development of capital is ever changing, with different forms of capital worth more or less at specific points in an individual's life. For the purposes of this discussion only two forms of capital will be dealt with.

Cultural capital in the Traveller context consists of knowledge of forms of behaviour and skills developed across time, which are culturally appropriate to use in a Traveller community (and see further, Mac an Ghail, 1999; O'Donnell & Sharpe, 2000, for a discussion on rapidly altering notions of what constitutes cultural capital and the impact of these changes on social expectations in early 21st Century life). For example, a woman who exists in a site context will find that knowledge and expertise

in some aspects of 'feminine' behaviour valued in parts of the mainstream world (e.g application of makeup, ability to select and wear 'classy' clothes in an appropriate manner (Skeggs, 1997)) will be valueless in a Travelling situation. Instead, she will be expected to have knowledge of certain aspects of Traveller life, albeit not immediately, but as she undergoes the process of becoming a Traveller. Cultural capital in this context will then consist of knowing how to keep a burner going, perhaps possessing the skills to undertake basic vehicle repairs, knowing which wood burns best and knowledge of working techniques associated with Traveller typical employment such as fieldwork, ability to construct shelters, 'scrap' metal, etc.

Within the Traveller community similar inverse expectations exist vis a vis male roles and men's willingness to participate in child-care and other domestic chores (see below and other empirical chapters), although it can be argued that such 'gender-neutral' behaviours merely reflect an exaggerated version of changing main-stream expectations of gender relations (O'Donnell & Sharpe, 2000). However, while within some sectors of 'main-stream' society, (most noticeably among young working-class men, see O'Donnell & Sharpe, 2000; Mac an Ghaill, 1994; Collier, 1995; and Smart & Neale, 1999 on 'shared-parenting') domestic relationships are, at least theoretically, becoming more egalitarian, male expectations and images still tend to centre on notions of 'helping' with the children and housework, rather than taking a fully active and equal role in these areas. Similarly, while in main-stream society, a woman who can drive possesses a desirable skill, should she be a competent mechanic, it is likely that she may be regarded as an oddity, with this acquired capital devalued, and her physical appearance or educational qualifications worth more in terms of cultural capital than her practical skills. Thus capital is validated in certain situations, changing according to the context and specifics of life in which one operates (Fowler, 1997; Skeggs, 1997; Mac an Ghaill, 2000).

Social capital is a product of cultural capital, and may best be described as access to inter- and intra-group resources through connections and relationships (Gmelch, 1977; Bowles, 1999; McCann, O'Siochain & Ruane, 1994). As a person Travels for a period of time, given the nature of the society, they will meet up with Travellers from other areas who may know them by reputation, or through mutual friends. As connections are established a person develops their social capital, which may be called upon in

times of need, or used as a bond when making an arrangement based on trust (McLaughlin, 1980; Gmelch, 1977; Okely, 1983; Sutherland, 1987). At such times, the importance of reputation in situating a person within the Traveller community becomes of critical importance (Sutherland, 1987; Okely, 1983; Lemon, 2000; Fonesca, 1995).

Given the importance of tolerance and non-judgmentalism within the New Traveller ideology (although see later empirical chapters for examples of contexts where community sanctions are considered appropriate), someone may be a valuable part of the community even if perceived of by 'mainstream' society, as lacking particular moral qualities. While an individual may for example possess a history of unsuccessful child-bearing relationships, poor employment record, previous alcohol or drug addiction or criminal convictions, as long as an s/he participates in site and community life, they can quite literally make a new start by building up a reputation as a reliable member of (Traveller) society. Observations of Traveller-appropriate behaviour, grounded in group and individual discussions with site residents, lead to the conclusion that a person will acquire a 'moral' reputation by engaging in a network of reciprocal assistance (see too, Gmelch, 1977) and demonstrating a willingness to adhere to core tenets of community life (Hirschi, 1969; Bredemier & Stephenson, 1962). Examples of 'Traveller-appropriate' behaviour include: respecting individuals' privacy although offering support when it is needed, undertaking wood and water runs, 'watching out' for children, assistance with vehicle repairs etc (see Earle, 1994; Webster, 1999; Lowe & Shaw, 1993; Greenfields, 1999). By fulfilling these socially valuable chores, an individual will, over time, accrue various forms of capital, which will stand them in good stead as a participant in Traveller life. Conversely, by breaching acceptable codes of behaviour a person will obtain a reputation as an unwelcome site companion (Greenfields, 1999; Okely, 1983; Sutherland, 1987; Martin, 1998; Lowe & Shaw, 1993), which reputation will (until they alter their behaviour) follow them on their Travels, as despite the geographical diffusion, the Traveller community is essentially a close-knit 'closed' society (McLaughlin, 1980; Kenrick & Clark, 1999; Davis & Hoult, 2000).

This description of the constitution of reputation draws on Finch (1989) and Finch & Mason's (1993) work on family obligations and kinship networks, in particular

focussing on their emphasis on reciprocity, or reasonably mutual levels of support which may be expected from kin; an expectation which also determines the social relationships found amongst all 'types' of Gypsies and Travellers (Okely, 1983; Lemon, 2000; Sutherland, 1987; Fonesca, 1995; Save the Children Fund, 1992; Lehti & Mattson, 2001). Finch (in her 1989 study) identifies obligation to kin-group members as a central tenet around which the maintenance of family structures are based. Whilst, she argues, varying levels of moral and social *obligation* are felt towards individuals, (depending on their place within a kin-network and individual emotional ties), *expectations* exist, (overlaid by a normative framework which specifies *how* decisions are made relating to the required assistance) that support and assistance will be offered to a family member when needed.

I would argue that among New Travellers, at least within this study, a sense of extended kin-network is found, incorporating all people with a 'Traveller' identity, in a manner familiar from literature relating to Maori (Victoria University of Wellington, 2002) and Native American cultures (Marashio, 1982). Close friends and people who are known personally to informants are by analogy, the equivalent of relatives with whom bonds of frequent contact are maintained (Finch, 1989; Quershi, 1996) with Travellers whom one does not personally know, the equivalent of distant cousins, albeit linked by lifestyle rather than blood ties.

While in a kin-group setting, a relative who behaves in a manner which brings disgrace on their close family will be subject to sanctions and acquire a poor reputation (Stein, et. al. 1998; Quershi, 1996; McRae, 2000; Finch & Mason, 1993) in the Traveller context, a person may be socially ostracised, (Williams, 2001; Gmelch, 1977; Martin, 1998; 2002) with members of the community reluctant to assist them or live on the same sites. Hence, the social importance of building up a good reputation and repertoire of 'Traveller-appropriate' behaviours if an individual wishes to remain integrated into NT 'society'. However, as one interviewee in the pilot study indicated, even where a Traveller fails to conform to the ideological contract, or their lifestyle is such that their behaviour is of concern to other members of the community, it is extremely rare that they will be totally ignored:

“there are other people I have less to do with..I’d still be friendly and chatty..they are still there and they – I wouldn’t ignore them. I’d still acknowledge them, even if there is things in their lives I don’t want directly in my life, or the kids’ lives” Traveller woman late 20s, travelled 11 years, interviewed for pilot study

In circumstances where an individual is a stranger to site residents, or is regarded as an undesirable site companion, (although given the culture of non-judgmentalism this does not equate with being perceived of as an out and out unpleasant person), basic assistance in times of emergency will still normally be available, and is proffered as a recognition that all Travellers labour under common structural constraints (and see Martin 1998; 2002; Lowe & Shaw, 1993).

The Continuum of Traveller Identity

As with families, where particular people are drawn to other like-minded individuals, varying degrees of separation occur between different types of Travellers, even when a consensus exists on core beliefs and behaviour. In general, if Travellers with a different orientation to the main core of a site ‘pull on’, it is unusual for them to stay for more than a few days, to rest, or undertake vehicle repairs etc. In such circumstances although culturally specified hospitality will usually be available to new entrants onto a site, (such as advice on the availability of wood and water in the locality and possibly help in undertaking mechanical repairs), if a person does not fit in with a particular group they will move on rapidly, as friendly overtures will generally not be forthcoming (see Martin, 1998; 2002, Greenfields, 1999). Thus, even in circumstances where at first sight individuals’ behaviour and attitudes *appear* identical, it becomes clear that subtle variations in the culture of Travelling can and do exist.

Within this section of the thesis it is not possible to present a full analysis of Traveller identities and behaviours. However, a typology of specific characteristics (which I have identified as pertaining to ‘stronger’ (SI) or ‘weaker’ (WI) Traveller identities) is presented within Appendix 5 to enable the reader to explore this concept further. This classificatory tool will form the basis of future papers on the importance of identity to understanding nomadic behaviours.

Nevertheless, it is pertinent to introduce the proposition that whilst certain attitudes are expressed by almost all participants in this study, indicating a set of **core values** which are held, (or which all Travellers in this sample considered it *appropriate* for NTs to hold); varying degrees of adherence to this ideology situates a person along a continuum of Traveller identities. Analysis of the interview and observational data (rather than pre-identified conceptualisation) thus generated classificatory categories, adherence to which can be said to constitute a person's inter-community identity beneath the overarching 'Traveller' identity.

For the purposes of the current *parenting* research however, little discrepancy exists between informants in terms of attitude and expectation, (consolidating the finding that 'on-going post-separation parenting' is a core value of nomadic society) although greater variations in Traveller identity are found when considering attitudes to settlement and Travelling, relationships with non-Traveller partners, employment patterns, etc.

When considering the classificatory structure referred to above, and detailed in Appendix 5, it is critical that the reader bears in mind the following points. No attempt is made to claim that **all** Travellers fit neatly into the suggested continuum, as this typology of Traveller identities is devised from findings relating to this *particular* sample. However, the study's informants are widely recognised as members of the Traveller community by other NTs, adhere (at least appear to adhere) to the moral contract/ideology outlined above, and their behaviours and characteristic attitudes are recognisable to Travellers outside of the interview sample, indicating that members of this community recognise that different 'types' of New Traveller exist (and see further, Greenfields, 1999). Moreover, while it cannot be claimed with certainty that this group of informants are typical of NTs, post-analysis discussion with a number of Travellers has re-confirmed that these differences in attitude and culture are commonly found within the wider nomadic community.

In conclusion to this section on 'identity', and prior to considering NT routes into parenting relationships, (which show broad variations according to the nomadic identity of an informant and associated choice of partner, see Appendix 5), it is worth noting that by the very nature of its all-embracing influence on daily life, adherence to

a Traveller identity may overshadow both social roles (as parent, partner, worker, etc.) and conceptualisations of 'correct behaviour'. As a result, (see later empirical chapters) conflicts between identity and behaviour were identified as significant 'trigger-points' for disputes between Traveller and sedentary partners.

Family Relationships and Children

Family structures among the entire sample often involved quite complex relationship interactions, frequently as a result of patterns of serial monogamy with children born into several relationships. Clear evidence exists that New Travellers are strongly family oriented (Earle et. al, 1994; Lowe & Shaw, 1993; Webster, 1999, Greenfields, 1999) and that while formal marriage is rare within Travelling society (unless this has occurred prior to a couple going on the road) children are generally willingly accepted into the community. The pilot study for this research (Greenfields, 1999) found that even where pregnancy was unplanned and a couple's relationship was of short duration, children were still welcomed and their birth was not regarded as problematic. While individuals within this community may change partners fairly often, with relationship breakdown not infrequently occurring during pregnancy, no stigma is attached to lone parenthood and new partners will usually accept responsibility for children with few difficulties (Earle et. al, 1994; Greenfields, 1999). To a large extent adults participate in collective childcare responsibilities (Millar & Webster, 2001) and widespread expectations exist that adults with particular skills will assist in passing on their knowledge to interested children (Greenfields, 1999; Earle, et. al., 1994; Dearling, 1998). In essence, by entering into the unspoken moral contract, which appears to exist between members of the NT community, individuals undertake to participate in responsible communal parenting (Earle et. al, 1994; Webster 1999).

Overall a high degree of responsibility for, and respect towards, children is culturally expected amongst Travellers, and in return children are integrated into all aspects of site life, and have a freedom of choice over which adults they choose to associate with. Thus as found in the pilot project for this study, teenage children in particular may select a 'family of choice' amongst site companions, so if disruptions or family conflict occurs, an older child may move to live with other Travellers who will 'look

out' for the young person, whilst respecting their autonomy in electing to leave home (see further chapter 7).

Gender role stereotyping is rare amongst Travellers, and whilst a high percentage of lone parents are often found on Traveller sites, many of these families are headed by men (Earle et al, 1994). The respect for personal autonomy found within the community, means that a woman will not be ostracised for leaving children with their father as long as they receive adequate care *and she retains contact with her children*, as strong cultural expectation exist that parents are party to a life-long relationship with their offspring. This expectation is found, even where a child was conceived casually, and as such, it is unusual for Travellers to lose contact with their children even if access occurs on the basis of sporadic 'block visits' (see subsequent chapters).

Within this community the lack of judgmentalism (vis a vis adult personal relationships), means that moral pressure is not placed on individuals to attempt to sustain a partnership that has failed. However, sanctions may occur if an adult is perceived of as failing their children without good reason. Whilst in an emergency, site members will rally round and provide a child with a place to live, food and care until the adult carer is able to support a child again, where an individual simply fails to acknowledge a child, or is clearly unreliable in terms of contact, then community disapprobation will often become clear (see empirical chapters). In such circumstances, the offending party will usually be 'spoken to' and internal community attempts made to improve the situation. If all else fails, 'shaming' a person by damaging their reputation as a moral being is a particularly effective sanction, given the close knit nature of the community and the speed at which news is passed along.

Having outlined some general aspects of cultural attitudes to children and families (which will be discussed in more depth in subsequent chapters), as a precursor to examining how post-separation parenting arrangements work in different contexts, it is time to consider the informants' child-bearing relationships.

Table 4.3 provides information on the number of child-bearing relationships entered into by each informant. Where more than one child has been born within a

relationship this is indicated by ‘grouping’ the children by parent. The next column indicates the ‘type’ of relationship, for example whether it was ‘casual’ or ‘committed’. Definitions of relationship terminology are provided below. Information is also given on the duration of each child-bearing relationship and whether the partnership ended during pregnancy, or if the couple ever cohabited. Finally, where an informant is currently involved in a personal relationship which is serious enough to warrant the epithet ‘partnership’ (as opposed to a ‘casual’ relationship) this information is provided in column 7. Data on the informant’s current partner’s nomadic status (e.g. whether they are a Traveller) is also provided in this column, as is information on the couple’s household arrangements (i.e. whether they cohabit or the informant retains their own independent residence). This latter data is important in terms of reference to the identity typology (see Appendix 5), and also permits a comparison between previous (column 6) and current relationship history (column 7), enabling us to consider whether informants have previously had children with Travellers or members of the sedentary population and whether they have subsequently partnered with an individual who has a similar identity and nomadic history to themselves. Moreover, in the light of subsequent discussions on domestic violence, the ease of leaving abusive relationships where women possess their own homes, and fathers’ ability to successfully co-parent when they access to a adequate accommodation (see Chapter 7), an informant’s current cohabitation status is of profound importance.

Example: Julie has had three child-bearing relationships (column 2). In her first relationship she gave birth to a son, in her second a daughter, and finally a second daughter (column 3). Her first child was born following a ‘casual’ relationship, while she married the father of her second child, and had a ‘committed cohabitation’ with her youngest child’s father. (column 4). Her first child-bearing relationship lasted for approximately one year, although it was not serious and the couple periodically went out with other people, or went for periods of time where they did not see each other. This relationship ended during her pregnancy (indicated by an asterix – see key to table). Julie’s marriage lasted for two years, and the committed cohabitation lasted for six years (column 5). The parents of her first and third child were both Travellers, although her husband was from a sedentary background and she resided with him in a house (column 6). Julie is now cohabiting with another Traveller (column 7).

Table 4.3 Informant's Children by relationship status/duration

NAME	No. child-bearing relationships	No./sex of Children per relationship	Relationship type	Duration	Other Parent Traveller	Current ptnr Traveller?
ANDY	1	1(f)	Casual **	Short-term *	No*	N/A
ASH	1	1(m)	Commit. cohab.	2+ yrs	Yes	N/A
DIGGER	5	1(f), 1 (f), 1 (f) 1 (m), 1 (f)	Marriage Conting. cohab. Casual** Commit. cohab. Did not cohab.	5 yrs few months* short-term* 7 yrs 8 mnths *	No No No No No	Yes – Cohabits
DON	2	2(f+m), 1 (f)	Marriage, Conting. cohab.	11 yrs 3 yrs	No Yes	N/A
GEMMA	1	1(f)	Casual	18 mnths *	No	Yes – couple keep own accom.
JAMMY	5	1 (f), 1 (m), 1 (m), 1 (m) 1(f)	All casual but Conting. cohab. x 3	All short-term No cohab. x 2 *	None	N/A
JILL	3	1 (m), 2 (m) 1 (f)	Conting. cohab. Commit. cohab. Casual	2 yrs (on/off)* 3 yrs short-term*	No Yes Yes	Yes – couple keep own accom.
JON	1	1 (f)	Conting. cohab.	2 yrs	No	Yes – couple Keep own accom.
JOSH	1	2 (f +m)	Marriage	5 yrs	No	N/A
JULIE	3	1(m), 1 (f), 1 (f)	Casual, Married, Commit. cohab.	1 yrs (on/off)* 2 yrs; 6 yrs	Yes No, Yes	Yes – cohabits.
KATIE	2	1(f) 1 (m)	Conting. cohab. Conting. cohab.	8 mnths * 2 yrs (on/off)*	Yes Yes	N/A
KATYA	3	1(m) 1(m) 1(m)	Conting. cohab. Conting. cohab. Commit. cohab.	'few months' * 15 months * 20 mnths	Yes Yes Yes	Yes – couple keep own accom.
LUCY	1	3(m) 2 (f)	Marriage	16 yrs	No	N/A
MAX	1	1(f), 1 (m)	Commit. cohab.	3 yrs (on/off)	No*	N/A
MICHAEL	1	1(m), 1 (f)	Marriage	15 yrs.	No*	N/A
MICK	2	1(m), 1 (f)	Commit. cohab. Casual	3+ yrs short-term *	No * Yes	N/A
NESTA	1	2(f)	Commit. cohab.	7 yrs	Yes*	N/A
PHILLIP	1	1(m)	Commit. cohab.	3 yrs	Yes	Yes – couple keep own accom.
POLLY	3	1(m), 1 (f) 2 (f +m)	Casual, Conting. Cohab. marriage	Short-term, * 2 yrs, 9 yrs	No, No, No*	Yes – cohabits.
REBECCA	1	1(m) 1 (f)	Marriage	8 yrs	No	N/A
SU	2	3(f), 1 (m)	Marriage Conting. cohab.	4 yrs 15 mnths	No Yes	Yes – Cohabits.
TERESA	1	1(f)	Commit. cohab.	5 yrs	Yes*	N/A
ZELLA	2	1(f), 1 (m)	Conting. cohab. Committed (didn't cohab. - kept own vehicles)	20 mnths * 4 yrs	No* Yes	Yes – couple Keep own accom.

Key to Table 4.3: * in 'Other Parent Traveller?' column, indicates informant Travelled with that particular partner (e.g. either the couple went 'on the road' together, or one or other of the couple introduced their partner to a nomadic life – and see Greenfields, 1999 for

further discussion on partnership as a catalyst for becoming nomadic). 'No'/'Yes' in the same column indicates whether the former partner continued Travelling on separation, and thus demonstrates if they have a continued adherence to a Traveller identity and acceptance of community parenting mores. ** in 'relationship type' column indicates pregnancy triggered cohabitation in a previously casual relationship (see below under relationships terminology). * in 'duration' column indicates relationship ended during pregnancy.

Relationship Terminology

In describing types of relationship, the following terms are used throughout the thesis. 'Casual' relationships imply a short-term predominantly sexual relationship although elements of friendship may exist. No commitment has been made to the other party, and the relationship is undertaken in the spirit of a 'fling' with no expectations of duration or mutual support. In general the couple have few interests in common, and may often move in different social circles. The terms 'contingent' and 'committed' cohabitation are adapted from Smart and Stevens' 1999 study of Cohabitation Breakdown and basic elements of these two types of relationship are as follows.

Committed cohabitation:

- relationship established prior to cohabitation
- some agreements exist regarding practical and financial matters
- children are planned/wanted by both parents
- both parents are involved in caring for their children
- mutually agreed expectations exist within the relationship
- there is a presumption that the relationship will last

Contingent cohabitation

- the couple have not known each other for long before cohabitation
- practical and financial agreements are absent
- children are not planned (although they may be wanted when pregnancy is confirmed)
- there is a requirement for significant personal change if the relationship has a chance of working or becoming committed cohabitation
- there is no presumption that the relationship will last, only a hope

In two cases (Katya – 3rd child-bearing relationship; Julie, 3rd child-bearing relationship) informants had moved from contingent to committed cohabitation over the duration of their relationship, and in both cases the informants subsequently underwent a ceremony of commitment, known as a ‘Tor marriage’ or ‘handfasting’.

Where relationships ended during pregnancy (which appears to be fairly likely to occur where both parties are nomadic), this is indicated by an asterix in the ‘duration’ column of Table 4.3. However, in such cases, the other parent may have been present in a supportive role up until a few months after the birth, thereafter, contact/residence arrangements appear to have commenced in a similar form to that which was on-going at time of interview. Overall, in seventeen out of forty four child bearing relationships (39%) the couple had separated prior to the birth of the child and nine out of fifty eight children (16%) were conceived in a casual relationship.

Of the three males who reported ‘casual’ paternity (all of whom held ‘strong’ Traveller identities) two are involved in an on-going relationship with the child. One male (Digger) has had no contact with the child as the (non-Traveller) mother had met another partner before he discovered she was pregnant, and the couple are not in communication. Of the remaining two men in this situation, one male has sole residence of his daughter (Andy) and the other cares for his child approximately half of the time (Mick, 2nd child-bearing relationship). Of the five women reporting children conceived in casual relationships, one woman (Jammy - only ‘strong’ identity informant in this sub-sample) did not wish the fathers to have contact with her family as she regarded the children as her sole responsibility. Two further informants (Gemma and Julie, 1st child-bearing relationship) stated that the father was involved in an on-going contact arrangement. Only one woman reported a ‘casual’ child-bearing relationship with another Traveller where no contact occurs between the father and child (Jill, 3rd child-bearing relationship).

It is particularly noteworthy, that of the nine informants who have been married, only one (Julie) had a relationship of this type after experiencing Travelling, and this marriage took place after she had settled into housing. On her divorce, this informant once again became nomadic (see Case Study 5: Appendix 6) All other marriages were undertaken prior to the informant becoming nomadic, and were to non-Travellers. In

two cases (Polly and Michael) the informant and their partner commenced seasonal Travelling together after their children were born, although in both these cases, after the marriage ended the informant's former spouse 'settled' albeit they continued to attend occasional festivals.

One informant (Mick) reported that his former partner had been a regular festival-goer (and performer) when they met, although only 'Travelling' during their relationship. When last contact occurred she was still following the same pattern. Three further informants (Zella, 1st relationship; Jon and Andy) reported that their partner Travelled with them for a short time while the relationship was extant, although it was clear that they did not take on a nomadic identity and subsequently dropped all contact with the community. Only one informant reported a relationship with a sedentary partner who was comfortable enough with the Travelling life to spend periods of time on site with the children once the relationship had ended (Max).

Where informants are in a relationship with another Traveller, it is less likely that a 'casual' pregnancy will trigger cohabitation (e.g. Mick, 2nd relationship; Jill, 3rd relationship) than if the other partner is sedentary (see Andy and Digger, at column 4). This finding is suggestive of the fact that where no personal emotional tie exists, nomads do not consider it necessary to formalise an unplanned pregnancy, considering that community assistance, and the presence of the other parent in the locality or on the same site, fulfil the requirements for support during pregnancy as effectively as co-residence. In addition, the likelihood that two Travellers will have their own vehicles, means that it is possible to "be around" during the pregnancy without loss of independence and accommodation. As is demonstrated in later chapters, in the nomadic context, on-going child contact and practical assistance are most likely to occur where both parents are Travellers. Thus it is possible that the expectation of separate lives but joint child-rearing crystallises during pregnancy, by enabling NTs to acknowledge that conception does not have to equate with cohabitation. Accordingly, it is possible for parents to devise a parenting relationship which is based upon a shared project, rather than an expectation that the couple will retain a personal commitment.

Conversely, problematic contact and residence arrangements are found most often where only one parent Travels (see chapters 5 and 6), and narratives indicate that greater pressure exists for the nomadic party to settle into housing once pregnancy has been confirmed. While a number of informants have experienced relationships with sedentary partners, and have on occasion moved into housing during such relationships, this is a less likely scenario where an informant has a 'strong' Traveller identity (see Appendix 5).

However, once child-bearing relationships have occurred with settled partners (or an informant has moved from settlement into nomadism) subsequent partnerships tend to be with other Travellers. All on-going relationships reported by informants involve another nomad, and informants with a 'strong' identity tend to report that their current partner has a similar Travelling history and identity to their own. In contrast, two informants with a 'weaker' identity are currently engaged with relationships with a partner who has not Travelled prior to their current relationship, possibly indicating that Travellers with closer links to the 'mainstream' community are more likely to act as 'gate-keepers' and introduce people into the nomadic community, rather than selecting partners from the pool of experienced Travellers. Relationships between Travellers are generally characterised by a degree of self-sufficiency, regardless of the level of emotional commitment, and in all but four cases the current partner retains their own living accommodation, allowing an element of independence, and the flexibility to dissolve the relationship relatively easily if so desired.

Kinship as a tool for minimising conflict

As will be explored in later chapters, extreme social pressures exist on Travellers to remain in contact with their non-resident children. Even where the parents are in dispute over their offspring, or a poor adult relationship exists, post-separation parenting arrangements are generally resolved through negotiation rather than formalised legal settlements, as informants express major ideological objections to 'going to law' (see below and Chapter 7).

As NTs develop a lengthy nomadic history and partner with other Travellers (both 'New' and of other more Traditional origins), it is clear that over succeeding

generations, patterns of relationships and kin-groupings will develop which echo the family structure and patterns of obligation found among other nomadic groups (Sutherland, 1987; Okely, 1983; Fonesca, 1995, etc.) It is already noticeable that many NTs (particularly those with a 'strong' identity and long history of Travelling) are engaged in complex family networks which other members of this nomadic community. As with 'traditional' Travellers, (see Sutherland, 1987; Okely, 1983) such family relationships are a particularly effective tool for ensuring that compromise solutions are achieved in potentially conflictual situations.

The following narratives, which deal with relationships between step-siblings and patterns of serial monogamy, illustrate how identification of 'new' forms of family (Silva & Smart, 1999) can be used in a positive manner. In both of these cases, the shortage of sites in particular localities and Travellers' eagerness to remain in contact with non-resident children, created a situation which could be potentially inflammatory, however constructs of 'Traveller appropriate' behaviour in relation to 'family' ensure that the dominant discourse relates to *positive* constructs of kin-networks, diminishing the opportunities to express socially destructive, *negative* emotions such as insecurity and jealousy.

"we'd only been together two months before I got pregnant but [Katie's daughter's] got three sisters that she's met and they're all Travelling as well which is really nice...we just bump into them all the time and we just, sheer – I don't know, we're on the phone to someone and they're on the same site and that...[they've] all got different mothers, I think he's got nine children and he died when he was 26"

KATIE

Katya had initiated a separation from her partner while pregnant, although she later began to regret the break-up. However, almost immediately, Xavier [the father of her child] met a new partner [Phyllis] and began to cohabit with Phyllis and her two children. Soon after Katya had given birth, Phyllis became pregnant by Xavier and following a series of evictions the two women found themselves living on the same site, as was Phyllis' former partner [Joe] who is the father of Phyllis' two children:

"I made a good connection with Joe the father of Phyllis' two kids, and as Xavier was having a baby with Phyllis, I actually spent quite a bit of time with Joe and we ended up being lovers for a little bit and it made it a really much safer situation 'cos like he'd have his kids to stay and I'd be around with my kids and we'd all muck in...we'd just like, I'd help him with his kids and he'd help me with my kids and we'd talk about how we felt about the situation.....after the baby was born, then when I'd actually held their baby I felt I could actually let go of that and forgive the situation....that's my little boy's brother and it's all family. Just trying to think of it like that you know...being close with Joe for a bit made it all feel more like a family and it also meant we could all be on the same site for a little while and it was a workable situation" KATYA

As can be seen, a high level of tolerance of 'complex' post-separation family situations appears to exist among site residents, creating a non-judgmental environment in which to raise children. Neither informant (or their offspring) appeared to find the presence of former partners, or their children's siblings particularly problematic, or a reason to avoid residence at a particular location. Similarly, other relationship narratives (and see further pilot study) suggest that newly re-constituted families often do not actively seek to avoid their former partners or members of the new household. While this is not to suggest that personal dilemmas and emotions may not be problematic for individuals, when considered with other indicators of an 'ideology' of relationships and behaviours, it does appear to indicate that jealousy and insecurities are regarded as of lesser import than ensuring that children remain in contact with a parent and that all parties are able to obtain parity of site security.

Accordingly, while it is clear that the majority of informants entered into parenthood with a desire that their relationship would continue as, or crystallise into, a stable committed partnership; where this does not occur, individuals are able to access community support and consolidate their sense of agency within a culture which does not equate relationship breakdown with personal failure. This positive stance on kinship and family (see Silva & Smart, 1999; Morgan, 1996), coupled with opportunities for economic activity (Millar & Webster, 2001) and gender equity, would appear to limit some of the most negative effects of lone parenthood (Miller, 1989; Bradshaw & Miller, 1991; Rowlinson, et. al., 1998) and thus may diminish much of the bitterness and sense of lost confidence associated with relationship breakdown in the mainstream context.

Overall, within the NT context it appears that household structure is less associated with hierarchical models of 'ideal families' than with personal choice and constraint. Accordingly, as long as adequate care is provided, the nomadic community pays little attention to whether children are raised by a couple, a lone parent, a reconstituted nuclear family or within a shared parenting or family of choice relationship.

Travellers attitudes to use of the law in family disputes

However, despite the lack of community expectations over the *form* which post-separation parenting will take, certain cultural presumptions exist over the *manner* in which these arrangements will be made. While these issues are developed further in subsequent chapters, at this point, it is relevant to consider Travellers' attitudes to use of the law when making family arrangements on relationship breakdown, as clear contrasts appear to exist between nomads and 'mainstream' separating couples in this respect.

While Genn considered that "the use of traditional court-based solutions to [family] problems....is fundamental" (1999, p117) Traveller families adhere to a distinctly different tradition, with opposition to seeking 'outside' assistance in family disputes so strong, that it can almost be claimed to represent a taboo. As a result, as discussed in Chapter Three, obtaining a sample of informants who had engaged with the law was somewhat problematic. Moreover, nomadic informants were generally reluctant to even discuss the possibility that their own parenting arrangements could break

down to the extent that legal action or advice was required, prefacing their consideration of the possibility with phrases such as “not that it would happen in my case” and other similar comments.

While a clear consensus of opinion existed that use of the law was problematic for Travellers, (with twenty two out of twenty three informants stating that they would actively seek to avoid court proceedings except as a last resort, and the final interviewee referring to the fact that they were unsure what they would do in such circumstances), three distinct themes emerged as explanations for this opposition to formalised arrangements over children.

Informants who had *not* engaged with the court system (see chapter seven) were most likely to focus on the area of **ideological commitment to internalised dispute resolution**, and the ‘taboo’ nature of approaching ‘outside’ authorities (twelve incidents). However, these comments must be considered in the light of the interviewees’ lack of experience of otherwise irresolvable conflicts, and indeed four informants later expounded on this subject to make it clear that they might go to law if no other alternative existed.

“You know, I feel that if we’re responsible for this mess, we’ve got to get ourselves out of it” **LUCY**

“the only circumstances going to court, would be if the situation ever come up that something happened to [mother] and her family tried to get involved and they were going to court.....but ‘opefully I would just get the kids and disappear” **MAX**

“well only if she ever really did stop me, or something drastic happened where he was really distressed....and I wasn’t in a position to talk about things with her... then I think maybe I would have to” **PHILLIP**

“it’s really crap going for custody things in court ..’cos it pulls the children apart, it really does pull the children apart, and it’s that big fight and that big court and the children are stuck in the middle and they are innocent of all of it” **KATIE**

"generally, try and stay away from anything official" **ANDY**

The second major reason informants gave for reluctance to seek legal advice over family matters was a **belief that** the parenting relationship is immutable, and therefore **legal proceedings have no place in what is essentially a private bond between all the parties** (six incidents).

"I didn't think it was in that domain, because I never, you know, having a child is not part of that legal world really, it is purely about working it out, you know, the only people who need to know who the mother and father are is [child]...I am his father and he is my son and nothing, nothing can deny that" **ASH**

"I think actually my rights are fairly good if you see what I mean....so it has no sort of relevance to me" **MICHAEL**

"I don't agree with the system on that aspect of things. The law should only be there to help people who need help... if people want help then it should be there for them to go to, but it should not come into people's live unnecessarily" **JULIE**

"if you're involving solicitors then it brings a different angle on things doesn't it, it's like saying 'I'm gonna go and get my Dad, innit' **DIGGER**

Finally, twenty one informants referred to a suspicion that by virtue of their lifestyle, they would be discriminated against in legal proceedings over their children. Thus, for many Travellers, a **fear of engaging with state authorities** (based perhaps on historical precedent during the years of wide-spread police surveillance and social services 'raids' on family sites, see Lowe & Shaw, 1993 pp91-92; and Clark, 1997), runs in parallel to the ideological opposition to formalised intervention in domestic matters. Even where informants had no personal experience of family law proceedings, widely-held opinions and a necdotal 'knowledge' of legal officers and

family court procedures, mean that the comments expressed below are not atypical of Travellers' perceptions of the law.

"for friends of mine who have gone through court cases – well it [the legal system] is bigoted" **ZELLA**

"I don't think the courts would probably be completely sympathetic towards me...I live in a bus, I don't have a job...I don't have anything that fits in with their view of what somebody should be" **DIGGER**

"they said it's quite likely that I would lose the children because my lifestyle is not acceptable" **DON**

"I wouldn't suppose they'd be that sympathetic actually....with the fact that we are Travelling....they might consider it unstable" **POLLY**

"if you've got to do it through the courts...you're just setting yourself up for it. For trouble" **JAMMY**

The above quotations therefore support the proposition that it was problematic to find interviewees who had engaged with the law (see Chapter Three), precisely *because* Travellers actively seek to avoid legal interactions in family disputes. However, given that a purposive sample of Travellers revealed twelve informants who *had* come into contact with family proceedings, it follows that, despite cultural opposition to such behaviour, certain trigger events will lead to nomads participating in legal action, notwithstanding the fact that a clear consensus of opinion exists that legal processes should be avoided, or used only as a very last resort. Thus, it is important to consider what circumstances are critical enough to override Travellers' apprehension and ideological reluctance to 'go to law'.

The remaining chapters in this section of the thesis therefore consist of an examination of the narratives of three distinct groups of informants. Firstly, (dealt with in Chapter Five) the interviewees who stepped far enough outside of the

ideological contract to initiate legal proceedings against a former partner, (or in one case, their own parents). This sub-sample consists of six informants, and cases are divided equally between contact and residence disputes. Of this group, only one case involves a couple who are fully integrated into the nomadic community and both in possession of a 'Traveller identity', although a further case involved a Traveller and his former partner who was a 'performer' and regular Festival goer, and thus had knowledge of 'Traveller-appropriate' behaviours.

In Chapter Six, we scrutinise the narratives of the second group of 'court case' informants, but in these cases the Travellers involved have responded to legal proceedings initiated by state authorities, or a former partner. These six cases all involve residence disputes (four cases) or care proceedings (two incidents), and thus, these informants are involved in a different pattern of legal action from the initiators considered above. Of this sub-set, only one case involved a Traveller couple, however when considered alongside the 'initiator' case, we are in a position to examine inter-Traveller disputes from opposing angles, compare and contrast the behaviours which led to such atypical behaviour, and indeed formulate a theory of post-dispute community response to socially disruptive actions.

In the final empirical chapter (Seven), a consideration is undertaken of 'pure type' parenting arrangements, demonstrating the ways in which Traveller informants use informal dispute resolution techniques and 'gossip' as a social control mechanism to ensure that the ideology of post-separation parenting is fulfilled in practice. Within this chapter we also consider other broad aspects of family behaviour such as responses to domestic violence and youth autonomy, and hypothesise the ways in which the Traveller community 'controls' certain parenting and relationship behaviours through sanctions, while supporting and sustaining particular forms of 'Traveller-appropriate' relationship.

Thus, the remainder of Section Two of this thesis explores the ways in which the nomadic community facilitates post-separation co-parenting, and contemplates Travellers' subjective experiences of the legal system when such relationships breakdown irretrievably.

CHAPTER 5

TRAVELLERS WHO INITIATE LEGAL PROCEEDINGS

Introduction

In this chapter we explore *why*, in the light of the ideological opposition to formal court proceedings found among Travellers, some of the sample initiated court action, or sought legal advice; and *how* the Travelling community reacted to the informant's atypical behaviour. Given that a consensus of opinion exists in relation to avoiding legal intervention in family matters, it follows that for individuals to breach this norm of behaviour and involve 'outside' authorities in matters which are widely perceived of as 'private', some form of community validation will be required, in order that an informant's reputation and social standing does not suffer.

As has been discussed in Chapter 4, all communities utilise methods of social control to ensure that their society functions efficiently and does not break down under the weight of chaotic inter-personal disputes (Sumner, 1906; Hirschi, 1969; Bredemier & Stephenson, 1962; Williams, 2001). Accordingly, over time, culturally appropriate sets of social rules are developed which prescribe particular methods of dispute resolution according to the circumstances of the conflict (Bredemier & Stephenson, 1962). In complex societies these methods of social control may consist of statutory legislative codes, while within families, a appeal may be made to an individual in a position of authority, or by asking a particular relative to intervene with the other party. However, regardless of which control mechanisms are used, particular codes for accessing such sanctions, and social acknowledgement of when it is appropriate to appeal to the community or appointed authority, always exist among members of any given society. Given Hirschi's (1969) third rule of social membership, (discussed in Chapter 4 at p112) it is possible to argue that adherence to the norms of a society involve an innate knowledge of *when* it is appropriate to apply control mechanisms or apply to members of the community for redress of wrongs; as inappropriate demands for 'justice' or seeking to sanction another for broadly acceptable behaviours would rapidly create stresses within a community which in themselves would require the application of a judgement to limit the risk of social disorder.

As will be demonstrated in later chapters, certain similarities exist between NT's use of social sanctions and Kalderesh Romanichal resort to 'Kris' (a form of community 'court' found in several traditional Gypsy societies although most especially noted among the Kalderesh – see Sutherland, 1987; Okely, 1983; Lemon, 2000; Fonesca, 1995) In Kalderesh society all (male) individuals who feel the impact of an inter-Romani dispute or identify a disruptive breach of social norms may state their point of view and debate upon the need for an acceptable resolution. The outcome of a case brought before a Kris depends upon the strength of the relative parties and family advocates and whether a recognisable 'core value' has been broken. Where a major breach of morality or internal norms has taken place, historical precedent and strength of community disapproval will often result in a recognised 'penalty' (which in some extreme cases may result in the exile of the offender and perhaps their immediate family from their kin-grouping or site, on either a permanent or time-limited basis). The main objectives of calling a Kris however, are to identify the impacts of the breach of social norms, attempt to heal the breach between community members, where possible reconcile the 'offender' and 'injured party' and reintegrate the offender into the community after imposing a suitable punishment (see Fonesca, 1995; Sutherland, 1987; Cahn, 1999).

Indeed not only Gypsies, but also a number of other indigenous communities (e.g. 'First Nation' Canadians (Lee, 1997); Maori (Tauri, 1999; Tauri & Morris, 1997) and Australian Aboriginals (Cunneen, 1998) practice similar techniques, demonstrating that community validation of 'punishments' may be the most culturally appropriate form of social control for many 'clan-based' or small-scale societies who often feel that 'mainstream' legal mechanisms are totally inappropriate for dealing with breaches of community norms (see Canadian Justice Department, 1998; Cahn, 1999; Off the Beaten Path, date unknown; Burbidge, 1998).

What is particularly noticeable about all forms of 'tribal' or 'cultural' justice (and it also worth including here social control mechanisms practiced by marginalized groups such as prisoners who also have their own codes of morality and acceptable behaviours in the 'closed society' found within a gaol see: DeRosia, 1988; Cohen & Taylor, 1981; Bondeson, 1989) is that an individual who wrongly invokes social sanctions against another member of their society is likely to suffer ostracism,

(Williams, 2001) become a target of 'gossip', or otherwise be rejected by their community (Pollinger & Pollinger, 1972) as a result of their "deviation" from acceptable behaviour (Schachter, 1951; Wardak, 2000). Accordingly, (as discussed below) internal social control mechanisms can act as a double-edged sword, with 'initiators' of proceedings, needing to justify their own actions (Community Policing Consortium, undated; Sutherland, 1975; Evans-Pritchard, 1940) prior to making accusations of wrong-doing by another. In this way, it is possible to find similarities between 'community' or 'tribal' law and the branch of the English legal system known as 'Equity', whose over-riding principle is defined in the ancient maxim "no man may come to equity without clean hands". In other words, under the rules of Equity, once a plaintiff seeks justice from a judicial body empowered to step beyond the most rigid interpretations of common law and come to an 'equitable' solution, the plaintiff is themselves exposed to scrutiny and closely examined to see if their plea is justified in the light of their own and the opposing party's actions. For an unworthy applicant, humiliation is swift and punitive action such as imprisonment or payment of swingeing fines may be imposed.

While in the Traveller context, punishments for disruption of the social order are somewhat less formal, resulting in loss of reputation and/or possible exile from a site rather than financial reparation (see subsequent chapters) it is abundantly clear that initiation of sanctions may have serious social consequences for both the 'offender' and the 'initiator'. As is considered in more detail later in this and the following chapter, in an attempt to avoid allegations of culturally inappropriate behaviour, Travellers who wish (or have no alternative option) but to seek judicial redress, typically follow a pattern of community justification and validation prior seeking legal advice. While interview data did not focus explicitly on this stage of the legal process, analysis revealed clear patterns followed by 'initiators' before they engaged with formal legalistic procedures. The similarities in these narratives were striking enough to lead to the conclusion that members of this community are gradually devising a set of social control behaviours which include markers for when it is acceptable to access 'outside' help.

The more closely an individual is identified with the Traveller community (and thus the greater the amount of social capital which can be lost through inappropriate use of

either 'internal' or 'external' sanctions), the greater the likelihood that an informant will have engaged with all stages of the validation process, ranging from in-depth discussions with other Travellers on the 'correct thing to do' (Finch, 1989; Finch & Mason, 1993; Quershi, 1996) attempts at negotiated dispute resolution (see Sutherland, 1987; Okely, 1983; Olsen, Morris & Maxwell, 1995) and, (as a form of 'half-way' house) seeking advice from a specialist 'Traveller organisation' before finally engaging with outside authorities who have the power to enforce a settlement upon the other party. It is noteworthy too, that where an opponent is *not* a member of the Travelling community (see below and subsequent chapters), that a consequently lower level of justification appears to be required, as commencing legal action in such circumstances is potentially less disruptive to the community (although see too, Mick's narratives for possible 'dangers' of such actions and further, Canadian Justice Department, 1998).

Yet, even where an informant is able to access support from other Travellers, and is perceived of as justified in going beyond the community in an attempt to resolve a parenting dispute, given nomads' concerns over judicial discrimination based upon lifestyle (see Chapter 4), it does not follow that that a member of this community will achieve the outcome they desire when they engage with legal proceedings. Thus, in the remainder of this chapter, we now contemplate both the community validation process followed by 'initiators' and their subjective experiences of the family court system. In this way an attempt will be made to deconstruct both Travellers' moral codes relating to post-separation childcare, and 'mainstream' legal officers' interpretation of 'good enough parenting'.

The Initiators

Table 5.1 (below) sets out details of the informants who have engaged with the legal system on a voluntary basis – as opposed to reactive response to a legal action initiated by a former partner, or an official body. In one case, (Jon) the informant has not yet proceeded as far as seeking legal advice, although he has made a commitment to taking this step if a final attempt at informal negotiation fails. Jon is therefore included in this category of 'initiators' to allow for consideration of the processes undertaken by Travellers prior to seeking legal advice, and indeed demonstrate the importance of the community in validating such an action.

Informants classified as 'initiators' fall into two categories: those who proceeded to full court hearings, and individuals who have abandoned legal proceedings (or as in Jon's case) not yet taken this route. Type of dispute, and gendered expectations of family proceedings, then produce further sub-classifications and layers of experience.

The sub-sample is divided evenly between male and female informants, with all women having experienced some form of legal proceedings. Conversely, only one male has, as yet, proceeded to court. While identity type is not subjected to full analysis in this context, three informants (Jon, Mick and Teresa) exhibit a 'strong' Traveller identity, and in line with the parenting characteristics identified as common to such nomads, all of these interviewees were engaged in shared residence arrangements with their former partner prior to dispute (see Chapter Seven for a fuller discussion on the disposition of split residence arrangements).

Table 5.1 Informants who initiated legal action/advice over children

NAME	OPPOSING PARTY	OTHER PARTY TRAVELLER?	NATURE OF DISPUTE	RESPONSE BY OTHER PARTY	OUTCOME
JON	Former partner	No	Contact	No response to informal attempts to re-establish contact	No contact to date – currently at 'pre-legal' stage
JOSH	Former partner	No	Contact	Mother opposed - counter-claim re: suitability of father for contact COURT CASE	Contact to Informant
JULIE	Informant's Parents	No	Residence	Objection to residence to child's mother COURT CASE	Residence to Informant
MICK	Former partner	No but attended Festivals on a regular basis as a performer	Residence/ Contact	Mother opposed - counter-claim re: suitability of father for contact	Informant advised by own solicitor to drop case
SU	Former partner	No	Injunction – leading to Residence dispute	Residence application by Father in 'revenge'	Injunction Granted. Father advised to drop Residence case
TERESA	Former partner	Yes	Residence	Cross-application for residence by father COURT CASE	Residence to Informant

It is of note that all but one case involves former partners in dispute, and that all male initiators sought legal advice or action over failure of contact arrangements, while women initiated action in response to residence disputes. Informants' case studies are provided at Appendix 6, wherein are found full details of the conflict and circumstances which triggered legal action. For the purposes of the analysis carried out within this chapter however, key themes are presented and discussed with reference to individual narratives. Only one case study is presented in full within the body of this chapter, and Teresa's narrative (Box 5.3) is used to illustrate the escalation of the dispute, internal social pressures and breakdown of negotiations which occurred prior to this informant feeling justified in taking legal action against another member of the nomadic community.

Given that disputes fall into two clear categories: residence and contact, each type of application will be considered in turn, allowing us to scrutinize the circumstances which led to legal engagement and contemplate whether common themes exist.

Contact case themes (3 incidents – all male informants)

Two fathers (Mick and Jon), had been full-time nomadic Travellers prior to entering into a relationship with a non-Traveller partner (albeit, Mick's partner had been an experienced festival goer and performer, with a network of Traveller contacts prior to the relationship commencing). Both men reported that their partner had initially appeared keen to enter into their world, although deconstruction of their discourse revealed that both of these informants actually experienced a change of lifestyle during the relationship, with Jon moving into settled housing, and Mick experiencing urban 'squatting' rather than remaining nomadic. Josh, in contrast, had no experience of the Travelling world until after his marriage had ended, although both he and his wife had visited 'day festivals' and shared an interest in 'alternative religions'.

Both Mick and Josh's children were born into committed relationships, (in Josh's case, marriage, which had taken place at a young age) while Jon was cohabiting on a fairly casual basis, having moved in to his partner's flat for the winter, "*although I had other places I could go*" after meeting her at several festivals. Although no informant referred to a planned pregnancy, Mick and Josh's narratives indicate that they were fairly happy at the prospect of fatherhood. In contrast, Jon was somewhat

taken aback at the news of his partner's pregnancy, as within four months of cohabitation, he was already Travelling 'intermittently' and contemplating returning to live on the road, having disliked the "*pressure not to Travel basically, and to stay in a house*" which he reported experiencing during his relationship.

Although informants' narratives indicate that separation was triggered by a variety of events (see Appendix 6), all three men reported that their relationship had effectively ended by the time that their child (in Josh's case, his second baby) was a few months old. While in each case, the separation was initiated by the child's mother, the parental relationship remained reasonably amicable, (at least based upon the father's narrative) with the parents keeping in close contact over their children, and daily (or bi-weekly) contact occurring. Thus the early post-separation phase of the relationship operated in a manner reminiscent of Smart & Neale's description of 'interim' shared parenting (1999, p61), albeit with less hostility than is described in some of the 'mainstream' cases.

It is therefore clear that the change of parenting relationship did not initially alter the paternal-child contact. While Josh was the only informant able to point to a particular incident which triggered refusal of contact (see Appendix 6), he reported that in his opinion he was already becoming marginalized from his children's lives prior to the key dispute, and that the fight with his ex-wife's new partner simply worsened the situation. Other 'initiators' who were in dispute over contact arrangements, were however, less sure of when their parenting role declined, and merely reported a spiral of arguments with their former partner, culminating in refusal of contact.

Close examination of the informants' narratives, reveals however, that particular themes (shown in Box 5.1) recur in each of the contact dispute cases. Each of these elements will now be examined in turn.

Box 5.1 Contact Dispute Themes

High degree of post-separation paternal involvement, Mother had re-partnered, Parents had conflicting views on whether a child should Travel or visit particular types of site.	and
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Paternal involvement: Both fathers who had been Travellers prior to the child-bearing relationship, in line with the social expectations of their community (see Chapters 4 and 7), had been engaged in a full shared parenting project on separation. While no information exists in relationship to these men's role in their children's lives while the relationship was extant, it is possible to surmise that a similar pattern had occurred during parental cohabitation. The remaining father (Josh) while acknowledging that he had not shared full responsibility for his children during, and immediately after, his marriage had ended, had originally seen them on a daily basis, thus participating closely in their care. A high degree of paternal involvement is therefore found amongst this sub-set.

While such patterns are not unusual in the Traveller context, (accounting for just over a third of the whole sample, and see Chapters 4 and 7) in 'mainstream' society, such arrangements are rarer, with Smart and Neale's 1999 study finding a total of 16% of parents had shared parenting, and a comparable figure (17%) being found in Smart and Stevens' research into cohabitation breakdown (2000). Bradshaw et. al.'s 1999 research into separated fathers, found a lower figure still, with only 5% of fathers reporting that they shared care of their children. Thus, while these fathers' level of engagement is commendable in Children Act terms; in the sense of psychological adjustments to non-traditional gender roles ('giving away' the traditional maternal identity, see Smart & Neale, 1999, p51) or enabling a parent to reconstitute their identity as an *individual* rather than one half of a parenting couple (Smart & Neale, 1999, pp141-144) this post-modern parenting behaviour can prove problematic for a mother who operates within a separate paradigm, and perhaps wishes to 'move on' and reconstitute her life in a way which does not require on-going contact with a former partner.

Maternal re-partnering: All fathers who became involved in a contact dispute reported that their former partner had entered into a new relationship shortly before they were denied contact. Whilst narratives are, by definition, subjective descriptions of a dispute over children, and thus represent the *informant's* view of what occurred, it must therefore be considered that the existence of a new partner is a potential factor in these fathers' loss of contact with their children, (a finding which compares to that

reported by Maclean & Eekelaar, 1997, and Bradshaw, et. al., 1999). With reference to this point, Smart & Neale found that informants who were involved in post-separation shared parenting often forewent personal relationships, considering that the complexities involved in retaining a sense of the original family across households, placed too great a burden on subsequent partnerships (1999, p58). Thus, the corollary of this finding suggests that in the 'mainstream' context (although not, as shown in Chapter 7, the Travelling world) a shift from shared to sole custodial parenting may grant greater autonomy in devising a post-separation identity, with concurrent opportunities for establishing new relationships. Inevitably though, by one parent unilaterally deciding to move from shared to custodial parenting, the other party to the relationship 'misses out', with their role in a child's life displaced to suit the custodial parent's (perhaps understandable) desire for autonomy.

Conflicting opinions over nomadic lifestyles: Finally, in all cases, disputes had occurred between the parents when the mother objected to the child being taken onto sites, (or in Mick's case, particular types of Festival) or socialising with Travellers. Given that two mothers had experienced Travelling and Festival attendance, and Josh's ex-partner had had an interest in 'alternative' life prior to her religious conversion, the timing of the decision to end shared parenting is suggestive of the proposition that, in Josh's words, these mothers "*actually just wanted me out of the picture entirely and jumped on whatever she could use as a reason*"

Reflections: Of note in all three of the above cases, is the fact that despite a low level of on-going tension between the parents, fathers' reported that they had not expected contact to end, as they felt the hostilities between themselves and their ex-partner did not warrant such a draconian step. This may however, relate to male informants' inability to recognise that the parenting relationship was deteriorating, and that mothers found the high level of contact between themselves and their former partner unsustainable when they were in a new relationship (see Maclean & Eekelaar, 1997; Smart & Neale, 1999).

If maternal re-partnership has triggered loss of contact, this could also suggest that these mothers adhered to a pre-Children Act ethos, where both case-law and perceived wisdom supposed that once a mother re-partnered, a birth father's relationship to a

child would be minimised. (see Goode, 1965; and Thery, 1989; cited Smart & Neale, 1999) However, since the implementation of the Children Act, the orthodoxy of the on-going importance of parental contact has brought about a 'paradigmatic shift...[creating] a legal structure in which continuing contact with the non-residential parent could thrive' (Smart & Neale, 1999:2:36). Recent legal precedents support this philosophical commitment so strongly, that the "involvement of [an absent parent] must be assumed to be beneficial for the child, unless it is clearly demonstrated not to be" (*Re H (Minors) (Access)* [1992] 1 FLR 148 cited Maclean & Eekelaar, 1997:52).

As such, (and see later sections of this chapter dealing with interactions with solicitors), regardless of the mother's attitude towards the father, where a man with a history of commitment to a child (such as is demonstrated in the above cases) is unexpectedly denied contact, legal advice should reflect the fact that he is likely to obtain a contact order. Moreover, solicitors should also make clear that restrictions (e.g defining whether a child can be taken onto sites, who they are allowed to meet during contact visits) are rarely used in s8 orders, and then usually only where significant concerns exist in relation to a child's well-being.

Given this presumption of contact, these fathers' narratives shine an interesting light on the legal profession's interpretations of the Act when Travelling is an element in the equation, (see Mick and Josh's cases – Appendix 6). The case studies also suggest that mothers believe that the legal system will support them in refusing contact to a father if Travelling (and negative stereotypes of Travellers) are presented as a core reason for opposing contact, indicating that fathers' fear of discrimination on lifestyle grounds (Jon) may perhaps be justified (and see further, Cemlyn, 1998 for a discussion on Social Workers' perceptions of Travellers as a 'dangerous' and difficult to access client group). Interestingly, prior to attending court, Josh (who had at that time only limited contact with the nomadic world and a resulting 'weak' Traveller identity) had not contemplated that his lifestyle might prove problematic in the eyes of the law, concentrating instead on clearing his name over allegations of child abuse.

At this point, (see also under 'court experiences') it is worth mentioning, that despite Jon and Mick's prior co-parenting arrangements, a solicitor would be unlikely to support an application for either sole residence or shared parenting by either of these

fathers, regardless of their Travelling lifestyle. This is because, although under s11(4) of the Children Act, a residence order may be made in favour of more than one person at the same time, this type of order is still highly unusual, with the Court of Appeal holding that “the usual order to be made is one of residence with one parent and a contact order to the other” (*A v A (Children: Shared Residence)* *Times Law Reports* 23/2/94). As this case still represents the leading authority, and moreover contains the caveat that “*it is unlikely that such an order would be made where there are concrete issues to be resolved, for example the amount of contact*” it would be uncommon for a solicitor to apply for such an order in a disputed case, preferring to recommend the usual application for contact to the father. Thus, unless parents are in agreement (and in which case they are unlikely to seek an s8 order) shared parenting is automatically ruled out by the judicial system, with pre-dispute arrangements marginalized and legal validation provided for the ‘mainstream’ normative, maternal care/paternal contact nexus.

Residence case themes (3 incidents – all female informants)

Details of residence disputes are provided in case study form as Appendix 6. Proceedings in each of these disputes were initiated by female Travellers, and in all case involved court hearings. Two of the cases involved an informant in conflict with the child’s father, and in one incident the opposing party was the informant’s parents who alleged that she was an unfit mother and successfully applied for care of her newborn son under ‘wardship’ proceedings. The informant in dispute with her parents was a lone mother when the residence application commenced (never having cohabited with the father) but the remaining two interviewees were disengaging from a relationship with their children’s father when the parental relationship imploded as the result of a major trigger event.

Disagreements over lifestyle featured highly in two narratives (Julie and Su), with informants in this sub-sample (both of whom had been Travellers prior to the dispute) finding themselves pressurised to engage in more gendered parenting arrangements than are common among NTs (for comparative purposes, see ‘contact’ sample narratives). Su reported that on marriage, her festival going musician partner changed dramatically, expecting her to “*have dinner on the table when he came in*”, and Julie,

settling with her parents (at their request) when she found herself pregnant after conceiving during a casual relationship, discovering that she was expected to remain housed and obtain a *“straight job while me mum looked after my baby”*.

Only one case involved two Travellers in dispute (see Box 5.3 below) and prior to the dispute, shared parenting arrangements existed, in line with the findings of the ‘contact’ cases and normative Traveller behaviours. In this narrative, the conflict focused on allegations of poor parenting skills rather than disagreements over lifestyle. As such, this case contrasts with the other residence disputes, where sedentary opponents sought to remove a child from an informant’s care on the grounds that a child should be raised in a house with access to ‘mainstream’ educational facilities. The insistence on the primacy of ‘settled’ lifestyles therefore remains a constant in the majority of ‘residence’ and ‘contact’ narratives considered within this chapter.

Strictly speaking, only two of the residence cases were informant initiated, as Su (Appendix 6) initially applied for an injunction against her violent husband. However, when her ex-partner applied for residence of their children in apparent revenge for her leaving him, Su’s case expanded to include a counter-application for residence after attempts were made to demonstrate that her lifestyle rendered her an unfit parent. As this particular case raises the issue of responses to domestic violence (see further Chapter 7), expectations of ‘suitable’ behaviour by women, (an issue which appears of focal importance in the majority of legal proceedings cited by female informants,) and the constituents of a stable environment for children, it has been included in this category of narratives.

Residence cases are in some ways more complex than contact disputes, and thus harder to categorise. However, within this group three main themes can be found, each of which will be considered in turn.

Box 5.2 Residence Dispute Themes

Some form of major family crisis triggered the application, (e.g abduction of child, violence, etc.) although a delay may have occurred prior to the 'initiator' seeking legal advice.

In two out of three cases, opponents had different views on whether a child should Travel or visit sites.

In two out of three cases, the opponent wished to totally exclude the mother from the child's life.

Trigger events: Unlike the contact disputes, where precipitating event cannot be easily identified, the events leading to the mothers' residence applications all involved an extreme crisis (see case studies, Appendix 6). In two cases (Teresa and Su) the chain of events was triggered by domestic violence, although it required the abduction of her child by her former partner before Teresa proceeded to seek legal advice and apply for a residence order. Julie too, initiated residence proceedings following the 'abduction' of her son, albeit through legal methods in her case. Of particular note in the 'abduction' cases, is the fact that neither mother took *immediate* legal action for the restitution of their children. As is considered below (and see further Chapter 6) this response, while understandable in the context of Traveller behaviours, can be misinterpreted by legal officials to evidence lack of 'care'.

Lifestyle opposition/Maternal exclusion: In Su and Julie's cases, these elements will be considered together, as both of these narratives involve a non-Traveller opponent who sought to totally remove a child from the maternal influence. Given the presumption of contact to a parent (discussed above), and the tendency for courts to award residence to a mother (of the 25,809 residence orders made in 2000, over 90% of parents with care are female: Social Trends 32, LCD, 2000) it is clear that in these cases, the opposing party felt either a high degree of hostility towards the Traveller parent, and/or an extreme opposition to the child having contact with Travelling life.

In Julie's case, (as with Su – see below), the argument was presented that the mother was unfit to care for the child as a result of her lifestyle. Although Julie's parents had

invited her to return home during her pregnancy and had given no indications of their opposition to her lifestyle during that time, at court they focussed successfully on her heroin use, homelessness after eviction from the family home, and association with Travellers as a potential source of danger to the baby. In many ways this narrative raises parallels with Mick's case (above), where allegations of criminality and Traveller contacts were also presented as evidence of unfit parenting. Unusually, (see further, legal experience section) Julie was denied access with her son for some years, in an early twist on the argument of a carer's 'implacable hostility' to contact (Mitchell, 1998; Conway, 1997).

Apart from evidencing her parents' significant hostility towards her, and/or fear of her lifestyle, denial of contact in this way may well be an indicator of relative positions of power, as Julie cites her parents economic security, marital status and age, as major factors in the CWO's reports. It is of note however, that whereas the case commenced prior to the implementation of the Children Act, Julie regained contact, and ultimately residence, after the Act was in force, implying that the new ethos worked in her favour, despite the fact she had to compromise her lifestyle to obtain residence (see legal experience).

In Su's case, prior to the residence application, clear evidence exists that her husband was hostile to her Travelling life, and had expressed his determination that she would not take the children into such an environment. This contrasts with the contact cases, where opposition to Travelling appeared to be used as a post hoc justification for ending contact. Despite the father's apparent belief that children should not attend festivals, Su's case also shows evidence of hostility to the mother, with residence possibly being sought as revenge for her leaving the family home and obtaining an injunction.

Although Su's former partner was advised to withdraw his residence application through lack of evidence, it is important to consider the circumstances which supported this advice, and hence the variations between this residence case and others which proceeded to court. Firstly, to warrant a successful residence application, the father would have needed to show that Su's actions in attending festivals equated to neglect of the children. Secondly, he would need to overcome the domestic violence

and harassment evidence, to prove that it would be in the best interests of the children to remain with him, and have limited, or no contact with their mother. On the facts of the father's evidence, no grounds existed for proceeding with the neglect claim, and therefore Su was not called upon to justify her Travelling lifestyle. Moreover, Su was willing for contact to take place between her children and their father as long as she could be protected from violence, and thus removing the children to live with their father would have effectively deprived them of one parent given his plans for their future.

Of all the 'initiator' cases (both residence and contact) the only incidence where the opposing parties were not in dispute over a nomadic lifestyle, and no question arose of exclusion of the non-resident parent, involved two Travellers (case study summarised in Box 5.3 below). Given that both parties adhered to a 'strong' Traveller identity (see Appendix 5), and were nomadic on a full-time basis when the dispute arose, this case is highly atypical in featuring full legal proceedings rather than community dispute resolution. Prior to issue of proceedings, the couple had participated in a shared parenting arrangement, with the child moving between parents for blocks of time. Thus this residence case represents the most evenly matched dispute between partners, with the issue of settled housing and financial status proving of little importance in the way in which the case was tried.

Box 5.3 Case Study of Residence dispute between two Travellers (initiator's narrative)

TERESA:

Couple commenced Travelling together, committed cohabitation leading to birth of child some years into relationship. Disputes over father's alcohol use escalated after birth of child. Mother extremely concerned about his lack of hygiene and attitude towards childrearing. Violent incidents led to mother leaving vehicle. On-off relationship persisted for some months, with parent's sharing parenting while living some distance from each other.

Teresa had retained a flat throughout the time they were Travelling, although she was rarely resident there. On occasion she would go back to the flat with the child to "get away" from her partner, and gradually began to spend more time in the property. Further incidents of domestic violence led to Teresa ending the relationship, although she left her daughter with her ex-partner on the understanding that she "could have her back at any time" and that the child would pass to her for a residence block at

the end of the summer season. Father continued Travelling with child, but failed to notify Teresa where he was, and she heard rumours that he was attempting to move abroad with their daughter.

"it was all sort of rumour, talk, people were in the middle and I was still up [on site]...then these people whose opinion I value....they came down and said 'you'd better get [child] because everyone else was looking after her on site, and she's just walking round visiting people on her own little tod, and he's just getting slaughtered [drunk]'"

Teresa arrived at the Festival site where her former partner was working and a series of violent argument developed between the parents, with both parties committing physical assaults on each other over the space of a few days. Other Travellers became involved in the dispute, with the site splitting into factions with the father alleging Teresa was an unfit mother due to her history of psychiatric illness, and Teresa making accusations about his alcohol abuse and violence.

"there were people there going to me, if you want your child back we'll help you, we'll get your lorry and your child...he had all these people around, they're going 'you're mad' and this woman pulled me out and went 'you need a psychiatrist'....and you know, I was sort of trapped, and I could see [child] standing there and I couldn't get her away. It was awful, 'cos he had friends going 'if you let her, she'll never let you see her [child] again'. It was horrible"

Teresa left the Festival and moved to another site, hoping that she could arrange a negotiated return of her child through other Travellers. By this time her former partner had moved on again, and it took a number of phone calls and several days to discover where he had gone. During the course of a traumatic phone call, where Teresa could hear her daughter crying in the background, she was advised by her former partner that he was applying for residence of the child. He refused a mediated meeting with Teresa, stating that he was scared to go onto the site where she was staying in case he was attacked and the child seized.

Teresa then sought advice through a Travellers' Rights organisation, and on their recommendation contacted a solicitor. However, by this time she had become ill with stress, so returned to her flat, from where she was admitted to a psychiatric hospital. During her stay in hospital Teresa consulted a lawyer and commenced proceedings for an emergency residence order. This was granted, and Teresa, with a bailiff in attendance, collected her daughter from the site where her former partner was living. Residence proceedings continued for the next eighteen months, involving several court cases and CWO reports. Teresa transferred solicitors during the proceedings as she felt that they were culturally prejudiced and behaving in an discriminatory manner towards her former partner; focussing less on his care of the their child than on the issue of his being a Traveller. During the interim stages of the proceedings, in recognition of the parents' former arrangement, shared residence was (most unusually) awarded by the judge. Subsequently, after the child's father was arrested and convicted of being drunk in charge of their daughter, Teresa was granted full residence. She and her former partner have since reverted back to a negotiated contact arrangement, which provides both parents with the opportunity to Travel and work on a flexible basis.

Teresa's case contrasts with the other two 'residence' narratives, as not only were both parents agreed that Travelling is an acceptable lifestyle, but in this case, neither parent wished to exclude the other from the child's life. In fact, Teresa and her partner had moved from a typical 'Traveller' post-separation parenting arrangement to legal proceedings as a result of events which occurred while both parents (as indicated by the narrative) were in a chaotic stage of their lives. Had the dispute not escalated as a result of the breach of contact arrangements, and mutually expressed fear that other Travellers were becoming partisan, (thus causing disruption within the community) it is likely, that *despite* the father's alcohol abuse, the previous arrangement would have continued, as indicated by the resumption of informal contact patterns once the mother had been awarded residence (see further, Chapter 7 for a discussion on community supervised contact where safety concerns exist).

Although Teresa applied for residence, her position vis a vis care of her child, was identical to the Traveller fathers in the contact sub-sample, as from nomadic informants' narratives it can be seen that boundaries between residence and contact arrangements are blurred among this group, in a way which is not recognised by lawyers who are used to dealing with normative (gendered) childcare arrangements. Given that this case involves an inter-Traveller dispute, Teresa's experience of legal proceedings (analysed below), highlights problematic aspects of Children Act applications from Travellers' points of view, as not only are gendered expectations of primary care revealed in this narrative, but also court imposed perceptions of 'suitable' orders, which in turn reveal the cultural conflicts between nomadic and 'sedentary' outlooks.

In conclusion therefore, (excluding Teresa's 'pure type' residence conflict) a summary of the 'initiators' narratives reveals that the overarching theme of both residence and contact disputes involves a sedentary party's determination to separate a child from an 'undesirable' influence once the parental relationship has ended, rather than attempting to mitigate concerns over a child's well-being by offering practical support or negotiated child contact arrangements. In these cases, therefore, whilst the main issue is presented as a culture clash between 'settled' and 'nomadic' relatives, or even 'responsible' and 'irresponsible' parents, the issue of the *child's* right to contact

is apparently being ignored in the proceedings, contrary to the ethos of the Children Act.

So it appears that in the 'mainstream' context, the rights of Traveller parents and their children are being marginalized in terms of post-separation parenting, with sedentary former partners apparently concurring with nomads' own belief that Travellers' will be denied contact or residence through formal legal routes. In the light of this shared belief, and Travellers' ideological resistance to engaging with outside agencies, how then, did informants decide to seek legal advice?

Taking Legal Action: the decision making and justification processes (all 'initiators')

"[saying] 'I'm going to get a solicitor' it's like you're picking up a weapon"
DIGGER

"well I need to find a solicitor who is specifically a Travellers' rights solicitor, 'cos I think that's very necessary" **JON**

"it's wrong that a mum after carrying her kids for nine months and giving birth to them should have to actually ask the law if she were allowed to keep her children when she h'aint done 'owt wrong" **JULIE**

In this section, we examine how the informants talked about and justified their decision to seek legal advice in the light of their ideological reluctance to engage with court proceedings. Only one member of the group did *not* follow the decision making and justification process discussed below (Josh), and it is likely that this relates to his relatively 'new' identity as a Traveller, and isolation from the nomadic community at the point proceedings commenced (see Appendix 6). Over time, as Josh has become more integrated into Traveller normative practice, his behaviour and attitudes have altered accordingly, and when reflecting on his court experiences, this informant stated that he wished he had dealt with the situation differently, and had "*looked for some nicer ways round it, rather than involving the courts and stuff*".

Regardless of strength of Traveller identity (see Appendix 5), informants went through a period of discussion and community validation prior to taking legal action. The process followed by the sub-sample comprises of several stages, creating a system of checks and balances, which precludes using the law lightly. Each element is discussed separately below.

Box 5.4 Seeking legal advice – the validation process

Consideration of legal action must result from an extreme situation e.g. total loss of contact with a child where a close relationship previously existed, abduction of child, etc. (*opposing party's action is not proportionate to parental dispute*).

Informal negotiations, often involving mutual friends in a liaison role, or simply allowing a 'cooling off' period prior to re-contacting the opposing parent, are attempted prior to seeking formal advice.

Community support, including discussion of situation with other Travellers leads to seeking legal advice when 'informal' options have been exhausted. (*validation of decision to approach outside authorities*)

n.b. Where informant is isolated from the community (e.g seasonal Traveller, or resident in a house at the time the dispute occurs), it would appear acceptable to seek legal advice at an earlier stage of the process, as lack of social/practical support may justify obtaining expert opinion (see Josh and Su)

Prior to instructing a solicitor, informed advice will usually be sought from trusted 'semi-official' sources e.g Travellers Rights group, informal consultation with legally trained contact, etc.

Consult with a solicitor

Extremity of situation: Of the six cases dealt with above, four involved the total exclusion of an adult from the life of their child (Josh, Mick, Jon, Julie) and one the abduction of a child (Teresa). In Su's case, domestic violence triggered the residence dispute but it is worth mentioning here that had both parties been Travellers, site personnel would usually have taken informal action to remedy the situation (see Chapter 7 re: community support of contact arrangements after domestic violence). Thus elements of 'self-policing' will generally negate the necessity of formal intervention where violence occurs and it is highly unlikely that the parental dispute would have spilt over into conflict over their children in a 'site' environment.

Informal negotiations with opposing party: These were undertaken in three cases, (Mick, Jon, Teresa) and in each incident involved both personal contact and mutual friends who were in a position to discuss the situation with both parties, or at least pass on information (see Sutherland, 1987; Tauri, 1999 for comparable examples among other cultural groups). Generally informants observed that they had hoped that after a cooling off period the opposing party would be willing to re-establish contact or discuss sharing residence.

“but we had fallen out personally to a quite unbelievable degree” MICK

Where it had not proved possible to discuss the situation with the other party, most informants did not seek legal intervention or action for some considerable period of time, but accessed community support networks to discuss fully what action should be taken (all informants except Josh). Although Su was resident in a house when she sought an injunction, she also discussed the situation with her Traveller/feminist friends, and work colleagues, then waited for several weeks to see if the campaign of harassment would cease prior to bringing proceedings against her former partner.

Community support: Of particular note is the fact that Julie and Jon took no action for several months, despite total loss of contact with their children, and indeed, Teresa also avoided legal processes until her former partner announced that he was applying for residence. While these informants were living on site among a community who shared an ethos of avoidance of the law, they did not seek out legal assistance to remedy their situation. In all cases, it was access to a third party who bridged the Traveller/legal divide, (in Jon's case his current, Traveller 'rights-aware' partner, for Julie the solicitor who jogged past her site on a daily basis, and who gradually struck up a friendship with the Travellers living there, and in Teresa's case the Travellers' advice organisation) which facilitated a recognition that the law existed as an option given that negotiation had clearly failed. In addition, the level of knowledge provided by Jon's partner and Julie's solicitor, transcended the perceived wisdom that Travellers would not be treated fairly in court (see further Cahn, 1999; Burbidge, 1998; Parekh, 1995).

Isolated informants: Unlike other members of the sub-sample, Josh did not delay in taking legal action, and in fact consulted a solicitor as soon as accusations of child abuse had been made against him and contact had ended. It is likely that his rapid resort to legal processes was a combination of having already been in contact with a solicitor for the purposes of his on-going divorce, strength of links to 'mainstream society', and social isolation caused by his seasonal Travelling and hence lack of community support. Thus closeness to the nomadic community can work both ways, leading to a delay in formal action, but also counteracting the sense of helplessness and loss experienced by parents denied access to their children.

"I was basically having a nervous breakdown...spending a lot of time in bed....a lot of time drinking my way to the bottom of a bottle" **JOSH**

Informal legal advice: After obtaining community validation for seeking legal advice, all fully nomadic informants discussed the situation with informed sources prior to initiating proceedings. (Mick, Teresa, Jon, Julie). However, Su and Josh (both 'weaker identity' seasonal Travellers at this point) accessed solicitors as first-stop advice sources, and it is of interest that neither of these informants perceived of their lifestyle as relevant to the dispute. This variation in practice is suggestive of the fact that full-time Travellers felt a requirement for 'Traveller-friendly' advice prior to taking legal action, possibly as a way of double-checking on procedures, and advice they might receive.

Reflections: Given that of the six cases, four involved a dispute with an opponent who had no relationship with the Travelling community (see Teresa and Mick's cases), and in five incidents the justification for the other party's actions was removing a child from the pernicious influence of Travellers, it is unsurprising that community validation and assistance will usually be readily available for the Traveller involved in such cases. However, where the opposing party is a member of the Travelling community, the process is inevitably more problematic, potentially causing social disruption (as demonstrated by Teresa's case). In such cases, it is to be expected that the 'negotiation or cooling-off' phase of the process will involve a longer period

of time, and that the dispute will have escalated to deadlock prior to legal action being taken. In order to access community validation in such cases, the justification process appears to hinge on the concept of betrayal of the moral contract between Travellers.

Thus, in Mick's case, the fact that his former partner (who had links to the nomadic world through her work as a festival performer) cited his association with Travellers as morally and socially deviant, and in particular, threatened to reveal details of potentially illegal activities, can be taken as an indication of her total break with the moral community, as can her absolute denial of contact between Mick and his son. Mick's resort to the law, can thus be validated by holding that he acted in considered defence of his relationship with his son, and indeed the Travelling community.

Similarly, although less clear-cut, Teresa's justification for taking legal action can be said to be a response to her former partner's threatening to apply for a residence order. By proposing to take legal action against Teresa, the father also breached socially acceptable behaviour, although it is unclear whether he would actually have proceeded to court if Teresa had not initiated proceedings. This case therefore contains elements of mutual breach of the moral contract, with both parties seeking validation and assistance from other Travellers once their dispute had escalated to the point where negotiations had totally broken down, and neither party could see a way forward. As is considered in more detail in Chapter 6 and the Concluding section, where two Travellers proceed to court, a high likelihood exists of subsequent reversion to negotiated contact agreements, and this appears to represent a socially recognisable return to the status quo and acknowledgement of 'wrong-doing' by the legal initiator, where both parties have remained members of the nomadic community and it is important for the parents to minimise social conflict.

Informants' experience of the legal system

Having considered informants' routes into 'legalised' disputes, we now turn to examine the subjective experiences of the members of the sub-set who have engaged with legal processes. In total, five members of the sub-set have obtained legal advice from solicitors (Jon having not yet taken this step), and three, (Teresa, Josh & Julie) have proceeded to court in connection with their children. In this part of the Chapter

we examine informants' experience of solicitors, court welfare officers and finally, the court process, to allow us to examine whether Travellers' fears of discrimination and cultural misunderstandings are borne out in practice.

Solicitors

Of the five Travellers who had received advice from solicitors, two males instructed general High Street firms, two women approached 'specialist' family practitioners, and one met her solicitor socially. None of the solicitors used by the sample had previous experience of Traveller cases, and two informants referred to having to 'teach' their lawyers about the community's lifestyle and social codes to enable them to prepare for court.

Three informants reported that they were generally happy with their solicitors, and the standard of service received, despite their lawyers' lack of Traveller specific knowledge. These informants included Mick and Su, neither of whose residence cases proceeded to court.

"[my solicitor] was actually great, she was a sort of young black woman who was like 'yeah look I know where you're at, this is just prejudice. You know, I get it for being black, you get it for your lifestyle'...I was very much being seen as a woman who was being persecuted rather than as a Traveller" SU

Mick reported that his solicitors were "*very helpful*" and that they recognised the validity of his lifestyle, stating that "*they understood. I think they were sympathetic, or slightly sympathetic anyway*". Julie also expressed satisfaction with her lawyer, and to a large extent this appears linked to the relationship of trust built up between them over the years of the case.

"he'd seen how I was living and that I was keeping it together, seen I was sorted...he knew me on a personal level" JULIE

Two informants however, reported negative experiences with their solicitors, and in both of these cases, changed to another firm. Josh found his initial solicitor was very

slow in taking action, and held a negative attitude towards the likely success of the contact application. After four months delay with no court date having been obtained, Josh transferred to a specialist family firm who proved more efficient.

Teresa also transferred firms, after the practice that had obtained the emergency residence order on her behalf proposed to use court tactics based on stereotypes of Traveller behaviours (see below). The second firm of solicitors proved more sympathetic and open-minded *"they enjoyed meeting me because I showed them something they didn't know about"*.

The two men who sought legal advice (Mick and Josh) both reported that their (male) lawyers were negative about their chances of success, basing their advice as much on gender, as the nature of the case.

"[according to his solicitor] the courts are totally stacked against the father in general..... about 90% biased towards the mother and there was the character assassination that was about to be done on me which made it, he reckoned, about 99.9% certain ...it got to the stage where I didn't want to go to court 'cos I was going to be told that I wasn't allowed to see my son again, full stop..... I didn't know how I'd react to that". **MICK**

"the first solicitor I went to was saying 'oh it's just really hard, fathers never get anything' and all of this stuff." **JOSH**

Tactics

Although court tactics suggested by solicitors varied, the most commonly reported strategy in contact and residence cases, was settlement. Three full-time Travellers in the group were advised to settle into a house and stop Travelling. As Mick's case failed to proceed to court once solicitors' letters had been exchanged, this recommendation proved of little relevance, but he was advised that settlement *"would help"* his case. As Teresa already had a house base (albeit rarely used), the decision to settle for the duration of the case proved less problematic than for Julie who was

advised to obtain stable accommodation prior to re-applying for contact and residence.

The second advice theme propounded by solicitors can be said to involve 'downplaying' a Traveller identity. As referred to above, Su's solicitor dealt purely with the domestic violence issues of her case, allowing the judge to focus on the criminal assaults rather than be drawn into the Travelling aspect of the dispute. Julie, after settling into a house, (on the advice of her lawyer) obtained work as a care assistant and subsequently married a partner who had not Travelled, and thus her nomadic identity was overlaid by new role as a housed, employed spouse (albeit that her marriage later failed as a result of her husband's drug use). Josh, (perhaps naively, and related to his 'weak' Traveller identity), had not expected to encounter any objections to his seasonal Travelling, given that he was already housed. However, on the advice of his lawyer, Josh wore a suit to court, and obtained a haircut. He was also advised to behave cautiously when describing his employment at court hearings.

"At the time, I was working on a community magazine, and that was actually the first thing I said to them, it wasn't like 'what's your occupation?' 'Traveller' it was like 'what's your occupation?' and 'actually I'm unemployed and I'm heavily into local agenda work, I do a lot of community work and regeneration stuff', that's the things I said to them, rather than 'I'm a Traveller' JOSH

Teresa's first solicitors, having obtained an emergency residence order on the basis of abduction of her daughter and domestic violence, elected to follow tactics based on anti-Traveller discrimination in the succeeding residence case. Having realised that Teresa was unwilling to deny her Traveller background, the solicitors proposed to attack her former partner's identity, presenting him as a 'bad' Traveller, thus deflecting attention away from her lifestyle.

"they said 'right if we're going to get him then we have to do hair tests. Would you be prepared to do hair tests?' [testing for traces of ingested drugs] and when I went 'yeah' I felt that I was being pressurised to tell all his morbid details like. I felt really

intimidated, and I decided to leave, I decided I didn't trust them *they didn't understand where [father] and I were coming from.*" TERESA (emphasis added)

Teresa was so concerned that her lawyers were representative of the legal establishment's attitude towards Travellers, that she approached her former partner to suggest that they present a united front against the 'state authorities'. In essence, therefore, Teresa attempted to reiterate the couple's shared identity and restore the status quo, in a manner which the parents *later* achieved, although not until court proceedings had ended.

I said 'we'd better sort this out ourselves 'cos I don't trust them, they're going to take [child] off both of us if we're not careful..that's what I really felt 'cos there's me saying he's a violent alcoholic and there's him saying I was psychiatrically ill so they're saying 'oh this poor girl'" TERESA

Although the parents were unable to come to an amicable agreement at this stage, on instructing another firm of solicitors (who had been personally recommended), Teresa found that her new lawyer was willing to concentrate on aspects of the father's *parenting*, rather than his lifestyle. This shift of legal focus eventually led (exceptionally) to a shared residence order being made, although this was later revoked and sole residence ordered to the mother after the father was arrested when drunk in charge of the child, and new CWO reports were ordered on the insistence of Teresa's legal team.

Court Welfare Officers

As Su and Mick failed to proceed to court over residence or contact, only three informants were interviewed by CWOs. In each case the CWO was appointed at first Directions hearing, to report on the case and make a recommendation on what order should be made. All informants expressed their extreme dissatisfaction with this aspect of the court procedure, in line with other research into CWO interactions (Children's Legal Centre, 2000; Buchanan, et. al., 2001).

No CWOs in this sub-sample had experience of working with Travellers prior to the informant's case, and whilst Teresa reported that the first CWO appointed was generally well disposed towards Travellers, the officer's willingness to be open-minded, when coupled with lack of experience, left her unable to distinguish between acceptable Traveller practices and inadequate parenting. For example, the CWO allegedly failed to notice the lack of a separate bed for the child when inspecting the father's truck, and missed out on the fact that the lorry had not been MOT'd or adequately fireproofed. In general Teresa believed the CWO "*was taken for a ride*", as a result of her determination not to behave in a discriminative manner over non-normative aspects of the case. A second CWO, who was appointed very late in the case, at Teresa's lawyers' insistence, proved more willing to investigate the level of care and hygiene provided by the respective parents. However, her review proved to be unnecessary when the father was arrested whilst caring for the child and full residence passed to Teresa as a matter of course. In contrast to the 'cultural sensitivity' demonstrated by the first CWO in Teresa's case, both Josh & Julie reported that the officers appointed to their cases demonstrated a total lack of cultural awareness, and held 'conventional' views on children's upbringing.

"she talked a lot about the way I was interacting with [the children] 'cos I am sort of very relaxed and open about things and it was like, when they were at mine, I'd quite happily walk around without clothes on" **JOSH**

"I felt she had a negative view of thingsshe didn't come with an open mind..it was one of them 'now listen lady, isn't it about time you grew up and got a grip' sort of attitudes and 'but that's not how you fetch a child up dear'she were too conventional you know, that people shouldn't live like this and 'how can you say your children will be happy like that'" **JULIE**

Particular criticisms were also levelled at CWO's attitudes towards accommodation other than a conventional house

"I was living in a trailer at one point ...they were going na na na this isn't good enough, it's not suitable accommodation.....I had to move into a house and show them that I had a bedroom, water, toilet facilities and all that. Somewhere for [child] to sleep, roof over his head, seen in their eyes as suitable" **JULIE**

"[she took the view] it's not a very stable environment for children to be in, that it's not a very good thing for children to be living in a bender or caravan all year round. They seemed very closed minded to me" **JOSH**

Of particular note, is the fact that in both of the above cases (in contrast to Teresa's situation, where evidence of violence and alcohol abuse existed) CWOs initially advised that the Traveller parent should only have supervised contact. Such a recommendation is rarely made and, according to the Lord Chancellor's Department report 'Making Contact Work' (2000) (and see also Mitchell, 2001) should only be ordered in the following circumstances:

Box 5.5 Criteria for use of Supervised Contact

"there are concerns about one or a combination of domestic violence, child protection, mental health, alcohol or drug abuse and the relationship between the child/children involved and the non-resident parent. It often takes place at a specialist centre and is defined as involving:

- High vigilance
- Conversations being monitored
- Behaviour being closely observed and issues arising from it being addressed at a later stage
- At least one worker being present or in an adjacent room and by way of a one-way mirror being able to see and hear what is going on throughout every session."

(LCD, 2000 p21)

Both Julie and Josh reported several months of such supervision prior to contact taking place in a home setting. The prevalence of such orders appears to be un-researched, and their use in non-normative family disputes may prove worthy of further study (and see further, Chapter 6 and below, for a discussion on use of court orders in Traveller cases).

Court Experience (judges, magistrates and court orders made)

Of the three informants who experienced full legal proceedings, two (Julie and Teresa) appeared before County Court judges of significant experience, and Josh's case was dealt with in the Family Proceedings Court by a stipendiary magistrate.

Julie provided little information on her court experience, preferring to focus on her interaction with the court welfare officer. However, she did indicate that she felt that she had been discriminated against in the legal system as a young single mother, whereas her parents were seen as providing *"total stability, family lifestyle..plenty of money coming in"*. Although Julie only attended court on a few occasions, three orders were made in connection with her case. Initially, a contact order, followed by interim residence, which was finally confirmed as a full residence order approximately one year later.

To date, Josh has attended court on several occasions. Following the Directions hearing, where CWO reports were ordered, no contact took place between Josh and his children for five months, until CWO interviews had occurred and supervised contact was awarded. Referring to the first review date, Josh reported that he was concerned about the way his lifestyle had become of central importance to the issue of contact, as his former wife objected to his seeing the children on the grounds that he was a *"bad influence on them and would corrupt them"*.

At the review hearing, Magistrates' questioning centred on his reasons for wanting to take the children to festivals and sites if he was granted unsupervised contact.

"I was saying, look I'm on the road a lot and I do a lot of environmental work...it's all about getting out and talking to people and stuff so a lot of the time I'm not actually here...they were looking at me and saying 'well what can you actually provide in education for your children?' I was saying that at weekends I am probably away at festivals and out and I would like to be able to take them with me, and [wife's] first thing was 'no you've only got a camper van, and you can't have children away, not in a van like that'" **JOSH**

In the light of the mother's concerns, supervised contact was ordered to occur on alternate Saturdays for a four hour block of time, even though Josh's lawyer argued that such an order would require the repeated disruption of his Travelling schedule. Josh was particularly concerned that contact was ordered to take place at a "*Christian centre*" as prior to his conversion to paganism in adulthood, he had been raised as a practicing member of a non-Christian religion. Thus, Josh felt that he had no point of cultural contact with Christianity, and that use of such a centre negated an entire aspect of his children's social and cultural history.

At the review hearing two months later, religion was once again of central importance to the debate on the extent of contact, as Josh's wife indicated that as a born-again Christian she objected to her children being exposed to a pagan oriented Travelling environment.

"she was saying to her solicitor 'I'm a Christian and I take my children to church every Sunday and I'm going to start sending them to a Christian school'...then they asked me what my religion was and I actually declined to answer because I didn't think it was relevant, and I said this on the court record and they said 'well it is the way you bring up your children, it is relevant'. They were very, very negative...I've always known the system has been very sort of Christian, 2.4 children, house, mortgage, stuff like that but I never thought it would be that much of a problem...I walked in, like in a suit and everything, but I saw the magistrate sitting there staring at my pentagram and looked across the table and [wife] is sitting there with a nice little cross around her neck and I'm thinking oooohhh (laughs)" JOSH

Interestingly, Josh reports that the magistrates and solicitors in the contact case were more concerned about his adherence to paganism than his Travelling although he did concede that this might be because contact was supervised, that he had access to settled accommodation and "*didn't look the part*" when wearing a suit and a short hair-cut. Just prior to interview, Josh's contact order had been amended to unsupervised contact for an eight hour block, once a fortnight, at weekends. No staying contact is permitted, but Josh can now take the children onto a site for a few hours if he has friends in the locality. Not only does Josh feel aggrieved at the fact the

contact order has “*buggered up my arrangements, I’ve missed three festivals [and work opportunities] this year, ‘cos I’ve had the children*” but he is angry at what he sees as a denial of his children’s access to the valuable experience of Travelling.

“I want to involve them [in Travelling] and I think there is so much stuff around on sites that is good for childrenBy the sound of it [at the children’s home] the tele goes on at eight o’ clock in the morning and goes off at eight o’ clock at night and they just sit there square eyed in front of it all day, and I’m thinking do you know there is so much more than that, all you’ve got to do is look around a field, there’s stuff for kids to do everywhere” JOSH

Although Josh is reapplying for greater contact, after the Magistrates’ rejection of his request for shared residence at the last hearing, he is doubtful whether he will obtain the level of desired contact through legal methods. He is however hopeful that in time he will be able to develop a friendlier relationship with his ex-wife, permitting informal negotiated contact with his children and enabling him to introduce them to Travelling culture.

Teresa’s court experience has also involved a number of hearings. All applications have been heard before a County Court judge and apart from one hostile encounter (detailed below), Teresa is complimentary about the open-mindedness of the judiciary. The initial application for a *ex parte* emergency residence order was granted very rapidly, “*I don’t think he liked the violence*” and aware of the sensibilities of sending police onto a Traveller site, the judge on that occasion ordered that a bailiff with experience of Traveller cases should attend with Teresa to retrieve her daughter. Despite her former partner’s disbelief that she should invoke the law in such circumstances, “*he looked absolutely shocked and I just said ‘I’m sorry, I’m sorry that I had to do it **this** way*” (emphasis added) the hand-over was completed peacefully.

As the order had been made *ex parte*, a return date was set for two weeks later, where the father’s cross-application was considered and CWO reports ordered. Contact was granted to the father on the condition that he remained in the local area. While in this

case, the father was able to move onto a near-by site, it is worth noting that contact could not have taken place if a park-up had not been available.

Following submission of CWO reports, a long hearing was timetabled, and Teresa expressed her deep dissatisfaction with the judge and court process on that occasion. In particular, she stated her belief that she (and her former partner) were demeaned by their treatment, experiencing discrimination as Travellers, and being subjected to significant constraints of their lifestyle.

At the hearing, having considered evidence relating to Teresa's violence towards her former partner, the judge ordered that she give an undertaking not to enter onto, or reside at, the same Traveller site as the father. Once again, in the circumstances of this case, this was not problematic, but, if the dispute had been between parties who were both nomadic, this could have caused significant difficulties, underlining the concerns enunciated by Travellers over engaging with legal processes. More worrying however, was the fact that following discussion of the parents' Travelling plans for the summer, Teresa was issued with a prohibited steps order (PSO) on the motion of the court, barring her from removing the child from the jurisdiction.

"I said to them that day 'well I might move to Ireland' ... so then in the court I had to sign an agreement that I wouldn't leave the country with [child]...and also at that court incident, the judge – I had to stand up and the judge said to me – 'I believe that your father is a policeman, so you will not disobey this court, because you know what happens don't you' – and I thought that's got nothing to do with it whatsoever, I thought that's really outrageous, I thought how dare you, that it was intimidating in itself. After all *we are still both Travellers you know – classed as Travellers, scumbags, I think that's how they saw us*" TERESA (emphasis added)

At the close of this hearing, Teresa was granted interim residence with contact to the father on alternate afternoons, to take place in the informant's flat. Despite the violence between the parties, Teresa was thus forced to have contact with her ex-partner in her home "*the judge decided all of this and it was up to me whether I would let him take [child] out to the park, but it would be contained in my flat, and I would*

go out and leave them to have time together” Although Teresa initially agreed to the arrangements, given the history of domestic violence, the terms of contact could be claimed to be dangerously irresponsible (Hester & Radford, 1996; Hester, Malos & Hague, 1999; Mullender & Morley, 1994). Even ignoring this issue, ultimately both parents were constrained from Travelling for the summer by the terms of the contact order.

At the next hearing, where shared residence was granted, the case was heard before a retired judge who had been brought in to deal with a backlog of cases. Teresa felt that she was extremely lucky to come before such an experienced judge, as during the course of the hearing, following close questioning by the judge, the CWO altered her recommendation that residence should pass to the father on the grounds of Teresa’s psychiatric ill-health. At this court date, the PSO on Travelling abroad, and avoiding sites where the father was resident, were also lifted. Ironically (and confusingly), at this hearing, the father’s solicitors suggested that Teresa might recommence full-time Travelling and thus neglect her daughter’s education. In response to this suggestion, the judge held that, despite Teresa’s strong Travelling identity, her seasonal Travelling and attendance “*at events*” had the status of “*a holiday, so it is not Travelling*”. Thus, once again, even a well-disposed judicial authority felt compelled to ‘down-play’ the informant’s nomadism in an effort to demonstrate adequate levels of care. However, on this occasion the judge also proved willing to investigate further the question of the legality and comfort of the father’s vehicle, and quite exceptionally, ordered split residence to occur (with a six month review date) once he was satisfied that the child’s safety was assured.

However, following erratic take-up of shared residence by the father, (failure to attend to collect the child, etc.) Teresa applied for a review of the CWO report and a different officer was appointed on this occasion. The day before CWO interviews were due to take place, Teresa’s former partner was arrested whilst drunk in charge of their daughter and following Social Services’ emergency return of the child to her mother, Teresa’s solicitors applied for a full residence order, which was granted over the father’s objections. Since that time, the parents have reverted to the informal contact arrangements typically found amongst Travellers in this sample, despite the

judge's recommendations that the father should only have contact when supervised by his parents.

"I've made a compromise that he can come, and if he wants to see her, if he would like to have her for a week, then he is welcome to" TERESA

Although Teresa has attempted to publicly re-establish her firm commitment to Traveller norms by moving towards 'trust-based' contact, she has been subjected to significant criticism from some Travellers for initiating court proceedings. Teresa's tactics for rebuilding her moral and social reputation involve repudiation of rumours that she is blocking contact, and determined friendliness to her ex-partner and his girlfriend, for example, inviting them to use her laundry and bathing facilities, and "*offering to take [child] to him on site, for me to drive out to where they are*". She hopes that by moving towards "*treating [father] like another mate*" she will in time be able to restore the status quo (and her moral standing) among the Traveller community.

Conclusions

This chapter has provided both a discussion and illustrative examples of informants' experiences in initiating (and justifying) legal interactions. As has been demonstrated, Travellers do not proceed to law lightly, and in all but one case an 'initiator' was being threatened with the loss of a close relationship with their child before they sought legal advice. Given that 'mainstream' research indicates that separating couples perceive of lawyers as part of the service industry, to be accessed as a tool in adversarial family proceedings (Maclean & Eekelaar, (1997) found that 40% of unmarried, and 73% of married couples took legal advice in such circumstances, and Genn (1999) reported 92% of her sample took such action), Travellers' reluctance to seek outside assistance is striking. Moreover, despite the extremity of their situation, the sense of regret, and in some cases shame, expressed by informants when describing why they initiated legal action, supports the supposition that among Travellers, ethical and ideological objections to family proceedings co-exist with fear of discrimination within the court system.

Clear indications exist that the community pressures which militate against taking legal action, are at their strongest when the opposing party is another Traveller, and thus inter-Traveller disputes are highly unlikely to proceed to court (see also, Chapters 4 and 7) unless the initiator is willing to risk repudiation by the nomadic community. Thus in the only 'initiator' case involving two nomads, the protagonists have reverted back to an informal agreement once the court proceedings had ended, seemingly recognising that the social capital of both parties will be damaged unless an accommodation can be made (and see further, Chapter 6).

Overall, despite informants' reluctance to engage with court proceedings, the generally poor level of cultural knowledge found among legal professionals and the inappropriate terms of court orders made, outcomes appear to be broadly favourable to nomadic applicants, indicating that fear of discrimination within the legal system is perhaps inaccurate, and based more upon officials' ignorance of nomadic lifestyles than overt prejudice. However, it is also clear that Travellers *are* likely to be repelled by legal processes when advice focuses on the necessity of clients altering their lifestyle in order to be able to retain a relationship with their children (see also, Cemlyn, 1998). Hence some nomads with valid cases may, sadly be disenfranchised as a result of poor or inaccurate legal advice which concentrates on appearance and living accommodation rather than quality of relationship (Canadian Justice Department, 1998; Cahn, 1999; Tauri, 1999; Pemberton, 2001).

Finally, of the six informants detailed above, three (Julie, Mick and Su) have gone on to have children in subsequent relationships (see Table 4.3). Although all of these child-bearing partnerships have ended, it is noteworthy that in each case, regardless of the circumstances of conception or separation, the parents have come to their own arrangements over contact, and moreover have explicitly stated that they would avidly seek to avoid legal proceedings in future.

CHAPTER 6

TRAVELLERS WHO RESPOND TO LEGAL PROCEEDINGS

Introduction

Having explored the motivations and court experiences of case 'initiators' we now move on to consider the narratives of Travellers who *responded* to a legal action, in order to examine whether major differences exist between the two groups of informants vis a vis types of conflict, attitude to engaging with formal proceedings and experience of 'going to law'.

The evidence relating to ideological commitment and identity, suggests that the 'respondent' informants were just as reluctant as other interviewees to engage with the law, (and indeed as will be shown, one informant, refused to attend at court, despite the risk of losing custody of her child). However, these informants, while ostensibly faced with the same loss of relationship with a child as were the 'initiators', in some senses had even less choice than the Travellers considered in Chapter 5. As is shown in Table 6.1, all informants in this category were resident parents at the time proceedings were initiated, and thus, a sense of urgency existed over responding to legal action. In essence, this sample's choice consisted of either responding to proceedings or losing residence of their children, and moreover, responding to action which was driven by another party's agenda and speed of legal movement.

In this chapter therefore, we contemplate the reasons why court action was initiated, informants' response to legal proceedings, their perceptions of the formal process and the outcomes achieved; thus enabling us to reflect on whether this sub-sample's experience varies in any significant manner from the Travellers considered in the previous chapter.

Table 6.1 (below) sets out details of the informants in this sub-sample. All disputes centred on residence applications, and in four out of six cases the opposing party was the other parent. All but one case (Jammy) proceeded to court hearing, and in that incident, the informant's fear of legal interaction led to her failing to take advice over her situation, thus allowing the father to obtain residence by default, as he had lodged

the application while having staying contact with the child. One case (Rebecca) was still ongoing at point of interview, with an interim residence order having been granted to the mother.

Table 6.1 Informants who responded to legal action over their children

NAME	OPPOSING PARTY	OTHER PARTY NT?	ACTION INITIATED BY OPPONENT	NATURE OF DISPUTE	OUTCOME
DON	Social Services	N/A	Supervision Order – concerns over education Court Case	Residence	Residence to informant + supervision
JAMMY	Former Partner	No	Residence application Mother failed to seek legal advice	Residence	Mother did not engage with proceedings. Residence to father (mother unsure if Order finally made)
JILL	Social Services	N/A	Emergency Protection Order - Court Case	Residence	Residence to informant + supervision
LUCY	Former Partner	No	Residence application Court Case	Residence	Residence to father – children subsequently opted to live with mother
NESTA	Former Partner	Yes	Residence application Court Case	Residence	Residence to mother, contact to father
REBECCA	Former Partner	No	Residence application Court Case	Residence	Interim Residence to mother

Of the informants who responded to action brought by their former partners, three were full-time Travellers, and one was seasonally nomadic, albeit with a few months when she did not have access to a house (Lucy). Only one informant responded to a case initiated by another Traveller (Nesta) and this narrative (presented as a case study in Box 6.4) represents the converse of Teresa's case, considered in Chapter 5.

The remaining two cases involved Social Services Departments taking action over concerns around care of the children. Don was a lone parent holding unofficial residence (agreement made between the parents without benefit of court order), when Social Services intervention occurred. At the time dealt with in his narrative Don was seasonally Travelling, although moving towards full-time nomadism. Jill however, was a full-time Traveller, sharing residence of some of her children with a former partner. The Traveller father was temporarily settled, and had the children resident with him, when the emergency protection order was sought by Social Services.

Only one informant in the sub-sample had a partner at the point when proceedings were brought against them, and four informants (including one male) were lone parents. Thus household composition in this sub-sample is very similar to that found amongst the 'initiators' (who comprised two single non-resident fathers, one partnered informant and three lone parents), possibly demonstrating that legal action between former partners is more likely to occur when one party is 'vulnerable' and conceived of as unsupported.

While, as referred to above, initiators usually have some degree of autonomy in deciding when to take action, respondents must, by definition, either work to the timetable of the opposing party, or, as in Jammy's case, choose not to engage with the law. Thus the data is suggestive of the fact that 'respondents' generally appeared to experience an increased sense of vulnerability, as, through shortage of time, they were often unable to access the discussion and validation process referred to in the previous chapter, had limited control over the legal process, and frequently lacked choice when finding a solicitor at a time of great urgency.

"the lady that works for Women's Aid advised me to go...so I went to them and they took all my details down and didn't do much" NESTA

"I just felt very, very scared at the time and needed support really and the best support I felt I could have at that time was legal" REBECCA

Respondents' narratives indicate that disputes fall into two 'residence' categories: actions initiated by the State, and by former partners. Key themes for each type of case will be considered in turn. In the interests of brevity, only two case studies are presented in the body of this chapter, although reference is made to individual narratives to illustrate particular thematic areas. Remaining case studies are included in Appendix 6.

Box 6.1 Case Study of Social Services intervention over educational concerns

DON:

Informant was housed, married with two children and employed as community worker. Sent by his employers to investigate circumstances of New Travellers in area, Don developed an increasing interest in their lifestyle over the period of the project. Relationship with wife deteriorating rapidly at this time, and Don began Travelling as much as possible over vacations. Informant began taking children to spend weekends and holidays on sites with Travellers, and the children became reluctant to return home to their mother and school etc.

"they'd go back home and the kids would have a trauma because the rules or the boundaries for Travelling people and the rules and the boundaries for fixed people were different, so the kids were having a problem going between both worlds"

Don had moved out of family home by this time, retaining a flat, and children saw him on a very regular basis. Mother increasingly unhappy about the children's desire to Travel, and their refusal to attend school (as they saw Traveller children did not have to). Children increasingly being perceived of as having behavioural problems and mother felt that *"it wasn't safe for [them] to be associating with [father] in my new lifestyle as they were coming home with habits she didn't approve of"*. After parental discussions and arguments mother offered ultimatum to Don, that he either stopped taking the children to sites, stopped seeing them, or *"you've got to have them full-time"*. Children (at that point aged 13 and 10), moved to live with their father, and he obtained a local authority house large enough for the family. By this time he had stopped working and remained at home with the children when not Travelling. No legal transfer of residence took place.

Son (aged 14) decided not to attend school when in house and was supported by Don in this decision. Educational Welfare Officers intervened and after repeated refusal to attend school, and proceedings against the father, son was removed to care for six months and daughter went back to live with mother. Removal of son *"pushed"* Don into taking action. Obtained advice initially through Travellers' Rights organisations and Travelling friends who had awareness of legal proceedings, and also investigated legality of home education. Applied for residence order for children as part of proceedings to have son returned. Mother willing for Don to have residence of both children as long as social services satisfied with his standard of care. First solicitor used by informant proved unsatisfactory and *"prejudiced"* against Travellers. Transfer of solicitors led to change of CWO, and community support from other Travellers assisted informant in *"fighting the system"*. Travelled 'intermittently' during the case as advised to settle by lawyers and social workers. Third CWO appointed at Don's request and this officer was an ex-Traveller who had been a lone parent. With CWO's assistance Don regained residence of his son, and daughter then returned to live with him. Shortly afterwards the family became fully nomadic for some years.

Social Services case themes (2 incidents – children resident with male carers at time of proceedings)

Both cases involving Social Service intervention (see Jill's case, Appendix 6 and Table 4.3 for relationship information) commenced while children were resident in a house, and interestingly, while they were living with their fathers. While Jill's children were involved in a standard split residence disposition of the type common to Travellers, and thus were living with their father for a block of several months, Don was a lone parent with sole care of his children at the point when he came into contact with Social Services (see above). Jill's former partner (also a Traveller) was temporarily resident in settled accommodation when the children were removed from his care. Conversely, Don and his family were at the point of moving from housed, seasonal Travelling to full-time nomadism when they first came to the attention of the authorities. We therefore have families in transition in both cases where state intervention has occurred.

Jill's children were however, moving from a 'public parenting' situation (given that on site, their father's care would have been both supported, and open to scrutiny) to a 'private parenting' location, where from the mother's narrative they were placed in an 'at risk' situation.

"no food in the kitchen, no heating, no hot water" JILL

"it had deteriorated since we'd dropped the kids off, by quite a lot. I mean there *was* a washing machine, and they was all perfectly happy" PETE

mother and current partner participating in joint interview

In contrast, Don's narrative indicates that the trigger which led to social services interest in his family was his refusal to conform to normative attitudes to education and settled housing, although other causes for concern may perhaps have existed, given that later in his narrative he refers to problems in readjusting to housing after being away Travelling for several months at a time. Ironically perhaps, Don's parenting would have been open to a far greater level of public attention in a Travelling context than is found in a housed environment, and thus *if* valid concerns

existed over his care of the children, it is likely that moving from 'private' to 'public' parenting would have left him open to supportive scrutiny from the nomadic community, and thus minimised any risk of harm to his children (see Teresa's narrative, Chapter 5)

While it is clear that in Jill's case adequate cause for concern existed, issues around Don's parenting behaviour are perhaps open to greater debate, given that research suggests lone fathers are more likely to come to the attention of state authorities than mothers, possibly as a result of their perceived incompetence or simply rarity factor (Barker, 1994).

"as I understand it now, they saw me as a single parent male, and decided that I wasn't competent enough as a father" DON

Regardless of the individual circumstances however, in both narratives it appears that in the first place, Social Services departments were fairly rapidly alerted to concerns by neighbours, and this may well relate to local community awareness of the presence of a lone father Traveller living in their midst (see Cemlyn, 2000(b) for a discussion of Social Services Departments engagement with Traveller families).

Further analysis of the 'social services' narratives reveals that other themes are common to both cases (see, Box 6.2) and these elements are now considered below.

Box 6.2 Themes from cases involving Social Services intervention

State intervention over acts or omissions which would have been internally dealt with in the Traveller community, (for example, Don was subsequently informed about the legal requirements and availability of home education by other Travellers, and Jill would have been notified of the neglect of her children, by the father's site companions).

Failure to discuss, or take account of children's autonomy in opting for certain circumstances, (Jill's children could have returned to site, Don's children chose not to attend formal school when housed) leading to an assumption of neglect and disinterest on the part of the informants.

Lack of cultural awareness on the part of social workers appointed to these cases.

Community intervention: as referred to above (and see Chapters 5 and 7) where publicly acknowledged concerns exist over the welfare of nomadic children, community 'policing' and support exist to deal with issues of concern. Not only is anecdotal 'knowledge' available to Travellers (see Don's reference to discussions on education) but also specialist advice agencies such as Friends, Families and Travellers, and practical, site-based networks of aid where a parent cannot cope with a particular situation (and see Cemlyn, 1998; 2000b)

Children's autonomy: In both these cases, it is noteworthy that social services failed to consider the issue of children's decision-making processes and (in the Traveller context) right to self-determination and autonomy. While this is not to suggest that Traveller children should be exposed to neglect and abuse; as has been noted by a number of studies, (Cemlyn, 1998; Davis & Hoult, 2000; Sutherland, 1987) nomadic children are accorded a high level of autonomy at a relatively early age (and see Chapter 7). In the cases considered above, Don's children *elected* not to attend school, and were supported in this decision by their father, contrary to normative expectations; although revealing similarities between some NT and Traditional Gypsy attitudes towards the relevance of formal schooling when families' economic and social networks depend upon practical rather than academic skills (see Save the Children Fund, 2001; Lloyd & Stead, 2001; OFSTED, 1996, 1999).

Similarly, although Jill had telephone contact with her children on a regular basis whilst they were with their father, at no point did they request to prematurely return to live to her, despite the fact that they were aware of their level of control over the division of residence. In connection with this point, when asked about the children's reaction to the lack of care they experienced with their father, Jill reported that they hadn't seemed too concerned over the hardships involved, and indeed formulated their priorities in a manner which sits at odds with normative assumptions of neglect and abuse.

“well [older child] was totally freaked, he thought he’d put his dad in jail, you know what I mean, by letting the police in...the little one didn’t seem to notice much really, he was quite happy....but they wanted to go back to [father] they didn’t want to come back on site to us so [older child] was a bit angry as he didn’t really understand what was going on” JILL

Jill’s case also indicates the way in which children’s experience and autonomy may be downplayed when social workers and lawyers fail to *discuss* a situation with young people and neglect to ask relevant questions.

Social Workers’ knowledge of Travellers: Jill referred to the fact that it was not until the children had been in care for four days that her former partner had been able to contact her (as he had been arrested on a Thursday and held in custody over a weekend). Moreover the police and social services had made no attempt to contact her or the children’s grandparents, although the children and their father had access to all of the relevant telephone numbers. Jill believes that this failure of communication may relate to prejudice against Travellers, and a complete lack of understanding of contact and residence patterns found amongst the Travelling community.

“they’d actually made no effort whatsoever to get in contact with us and we were on the phone...the boys knew where we were but they [police/SW] said they weren’t interested basically ‘your mother’s not here, and she doesn’t want to know, otherwise you’d be with her’” JILL

When Jill was eventually able to speak to the social worker dealing with the children’s case, following “*a day and a half of phone calls*” she noted that he seemed surprised that she had contacted the Department.

“he said ‘oh well there’s a case conference tomorrow – are you interested?’”. JILL

Don also referred to perceived prejudice towards, and expectations of, Travellers, when discussing his experience of social services intervention over his children, a perception which Cemlyn’s survey of Social Service Departments provision for

Travellers, (1998, 2000a) and responses from some Social Workers appears to confirm.

“the only Travellers they’d ever been aware of, were Travellers that caused trouble, and then they’d never actually met any, they’d only read it in the papers, so they only had that vision of Travellers. The word Traveller would frighten them”. DON

Thus from these narratives, it would appear that Social Services intervention is most likely to occur when an ‘unsupported’ male Traveller is failing in their parenting, possibly because of the lack of community checks and balances. Social Workers’ lack of knowledge of nomadic culture (Cemlyn 1998) may further exacerbate the situation, as narratives indicate that significant culture clashes occurred in both of the above cases, with neither side being able to see how decisions had been made, and conclusions arrived at. Moreover, Social Workers, quite understandably in the context of ‘mainstream’ culture, appeared to conclude that parents were uncaring towards their children, whereas nomadic families equated autonomy with good parenting, and saw nothing peculiar about living apart from young children for several months at a time, and permitting young adults to make decisions on their education. Thus, when one considers culture clashes over nomadic parenting patterns, (e.g shared residence and ‘families of choice’) it is possible to see parallels with state responses to ‘unofficial fostering’ as practiced (predominantly) by West African families, although in this latter case, recognition exists of the ways in which culture informs parenting practice (Ellis, 1978; BAAF, 2001; DoH, 2001).

‘Former Partner dispute’ case themes (4 incidents – all female informants)

Cases where the protagonists are former partners fall into two distinct categories (see Box 6.3 below). Overall, narratives indicate that these conflicts are more straightforward than contact disputes, tending to show a clear-cut incident which triggers the application. Thus obvious similarities exist between these cases and the ‘initiator’ residence disputes. As with narratives considered earlier, case studies are presented within Appendix 6, and referred to within the body of the text to illustrate

key points. The one 'pure type' inter-Traveller residence dispute is included as Box 6.4 and thus represents a counterpart to Teresa's narrative (cited in chapter 5).

Box 6.3 Themes from residence disputes involving former partners

Informant became nomadic after separating from a conventional, formal marriage. Former partner has no knowledge of the Travelling lifestyle. (2 cases)

Unmarried parents, opposing party aware of informant's nomadic lifestyle prior to relationship. Application made some time after separation and on-going parenting relationship. (2 incidents - 1 case involving two Travellers)

Formerly married parties, opposing party with no awareness of Travelling: Two cases involved mothers who left 'sedentary' households in their 30s, and became involved in a nomadic lifestyle. In both of these narratives it is clear that their former partner had had no contact with 'alternative' life and to some extent may have been influenced in their actions by media representations of Travellers.

Lucy initially shared parenting of her children (who remained residing with her husband), while cohabiting with her partner and Travelling seasonally. While her husband appeared willing to engage with shared care in this way, the dispute which triggered legal action initially centred around Lucy removing the younger children from school and taking them Travelling, and then escalated into a vicious property dispute when her cohabiting relationship broke down and she wished to return to the marital home and evict her former husband. Thus in this case we find elements of sedentary/nomadic clashes over 'responsible parenting', possibly coupled with genuine paternal concerns over children's well-being, given that the children had been raised in a house. The main trigger event however, (showing similarities to Genn's (1999) findings on family law disputes), was the necessity to finalise property and financial arrangements, and as such it may be that the focus on children's residence arrangements was a post hoc justification for the father's application to the court.

Rebecca also departed a 'conventional' marriage after making contact with Travellers at festivals and becoming involved with political and ecological movements. As with Lucy's narrative, initially, little personal hostility appeared to exist between the

former couple. However, on Rebecca moving from seasonal to full-time nomadism, her husband (and his new partner) made representations as to the suitability of the children leaving a house and conventional educational facilities.

“he didn’t react too much just to going camping and to festivals, but he didn’t like it when we no longer lived in a house and did the normal things” **REBECCA**

Following a dispute over the wisdom of Travelling and the appearance of her children, Rebecca stopped paternal contact, moving abroad shortly afterwards. Some months later, after she had returned to the UK, Rebecca found that her husband had filed a residence application in respect of the children and obtained a prohibited steps order to stop her leaving the country. In this case, therefore, (even more clearly than in Lucy’s narrative), personal hostility between the former partners appears to play a lesser part in the dispute than concern over the change in the children’s situation, given their fundamental change of lifestyle.

Unmarried partners, opposing party with knowledge of nomadic lifestyles: The second type of ‘partner’ case consists of unmarried couples where the informant had a considerable history of Travelling prior to entering the relationship. While Jammy (see Appendix 6) had engaged in a contingent cohabitation with her son’s father, returning to Travelling at the end of the relationship, her former partner had not previously objected to her lifestyle, and indeed for some few years, had appeared content with contact with his son when Jammy and her children were in the vicinity. In this case the residence application was made while the child was staying with his father and grandparents, and Jammy puts the application down to the influence of the paternal grandparents’ hostility to nomadism and their ability to offer a ‘*rich, well-off life*’, indicating that she believed the courts would be more concerned with access to material wealth than standards of parental care. (cf. Julie’s residence dispute with her parents, Chapter 5). Thus, in common with several other informants, Jammy’s narrative highlights her perceptions of age and material circumstances as important to the legal establishment in deciding where to award residence.

In contrast to Jammy's rationalization for her former partner's actions, Nesta (Box 6.4) was unable to offer an explanation of why her children's father breached all the codes of 'Traveller-appropriate' behaviour (see chapters 4 and 5). Given that in this case both parties are Travellers, and Nesta was unaware of any particular hostility existing at the time the father initiated legal action, this narrative represents an anomaly within the Traveller context and is therefore presented to illustrate court experiences and post-legal negotiated contact arrangements.

Box 6.4 Case study of residence disputes between two Travellers (respondent's narrative)

NESTA:

Couple commenced Travelling together. Committed cohabitation, leading to birth of first child some years into relationship. Separated briefly after daughter born, but reconciled. Lived on stable site *"and everything was really fine when [oldest child] was little"*. Second child conceived accidentally when daughter was a year old, and the relationship began to deteriorate during this pregnancy. Father left the family when younger child few months old, continued Travelling in other areas and failed to see children for over a year.

When second child was 18 months old, Nesta obtained work on a fruit farm through *'good friends'* who were able to assist with reciprocal childcare. Father now began to visit the children intermittently. *"we argued a lot, like I quite often said that he had to be there constant for them, he couldn't just swan in when he wanted to and disappear... they wouldn't see him or hear he was coming for a few months"*

Father kept in regular contact for a while, then became more erratic as he left Travelling and moved between houses in various cities. On recommencing Travelling, he began to see the children again on a regular basis *"but it depends on his current girlfriend...like a lot of the time he'd keep it quite together, and come back and see them every two weeks, but then sometimes he'd split up from his girlfriend or something, go away and wouldn't see them for ages"*

After two years living on the fruit farm Nesta and the children became nomadic again, Travelling in the summer and wintering up on a long-term 'family site' with friends. Father still exhibited tendency to be erratic over contact, particularly over coming to site to collect children, but as they became older, the girls began to spend fairly regular block visits with their father.

Father was housed and living some distance away from the children when he requested block contact. Nesta drove the considerable distance to her winter site where the father had suggested meeting up and found that he had not arrived as planned, but had phoned to say he would be there a few days later. On

the understanding that she would collect the children from their father a couple of months later, Nesta left the children with mutual friends, and returned to work in another area of the country.

For the first few weeks of the block contact Nesta telephoned her children every two days. They told her their father had moved house, but he refused to give Nesta the address. Initially she thought he was "*winding me up*" and as she didn't want to become involved in an argument, decided to get the address when she arranged to collect the children. Over the next month, she found it increasingly difficult to speak to the children, as they "*wouldn't be there*" or were "*in bed*" when she phoned. Eventually she told the father that she was abandoning work and coming to collect the children the next day.

"[He] ended up shouting at me ..usually he'd put the phone down and after about the third try at a phone conversation like that he said something about not getting the kids back and I said 'right then I'm coming to find you - like what do you think you are doing?'" Nesta

On dropping her truck off at her winter site, in order to get into town more conveniently, Nesta was presented with a bundle of legal documents, which had arrived for her some days earlier. Her former partner had been granted an ex parte interim residence order and prohibited steps order banning her from removing the children from the jurisdiction. Nesta's Travelling lifestyle had been cited as a reason for removal of the children from her care. The interim order was valid for three weeks and would have been made permanent if she had not attended at court. She was particularly distressed at the fact that she would have missed the court date if she had not gone to the site, as despite knowing she no longer lived there her ex-partner had advised court officials to serve the documents at that address.

Nesta immediately sought legal advice from a solicitor obtained via Women's Aid but she was refused Legal Aid on the grounds that her Family Credit award and earnings were too high, as she did not have standard housing costs to pay. The solicitor who advised her put in a Legal Aid appeal and Nesta believed she would be legally represented. It was not until the night before the court case she discovered that a solicitor would not be present. At court, the case was adjourned for CWO reports and Nesta was granted contact with her children supervised by her former partner. She returned to her old site in between contact sessions and on the recommendation of friends obtained statements from the Health Visitor and nursery regarding her care of the children (see Jill's case for similar tactics).

At the next hearing, the CWO's report recommended the return of the children, based on Nesta's collected statements, coupled with a recommendation from the father's parents that the children should remain with their mother. A key element of the return of the children was based on Nesta's settlement into housing. Prior to the order of interim residence to the mother, she had to provide proof that she had obtained a house for the family. Settlement arose in response to the CWO's statement that the children would be put into a school if they remained in a house with their father, and once that happened she would not obtain residence.

Nesta obtained a house (in another locality) through Traveller contacts, and on being granted interim residence was regularly visited there by a local CWO, who also checked on the children's school attendance. Now unable to afford to work, Nesta obtained Legal Aid and was represented at the next court hearing. Although contact had been granted to the father, he did not exercise this right, or attend for CWO meetings. Subsequently, Nesta was granted full residence and the PSO was removed.

Shortly before interview, (three months after the final court date) Nesta returned to Travelling. Although she has not formally given up the house, Nesta does not intend to return to settlement and is planning to take the children abroad for the winter. She does not feel that the father will object to this plan, as he has not exercised his court ordered contact and the couple have returned to an informal arrangement where he can see the children as and when he wants. The father is aware that Nesta is Travelling again.

Reflections: While several recognisable themes exist in 'Partner' cases (see Box 6.3) what is perhaps most interesting, is the diametrically opposed behaviours of the two informants who adhered to a 'strong' Traveller identity prior to becoming parents. While Nesta sought legal advice and 'settled' for the duration of the case, downplaying her Traveller identity in the way described in the previous chapter; Jammy, in line with informants at one end of the ideological continuum, (see Chapter 4 and Appendix 5) elected to totally avoid the legal system, demonstrating a combination of ideological commitment to the notion that parents should not engage with legal authorities, and fear of institutional discrimination against Travellers.

"I just think it's really sad if you've got to do it through the courts. It's really sad, and you're setting yourself up for trouble. I don't trust them.....I think single parents are really vulnerable if they're Travelling and they've got to go through legal stuff I don't think the courts would take kindly to Traveller kids if there's a single parent on the road and the other parent is in a house" **JAMMY**

Thus, while Jammy elected *not* to seek legal advice (and further, consider Jon's narrative, Appendix 6), we can recognise similarities in her justification for disengaging from the court process and Mick's description of the circumstances which led him to opt out of contact case proceedings (Chapter 5). While this group of informants are therefore the most dramatic adherents to the 'court avoidance' pattern referred to in Appendix 5, we can see an internal coherence in their decision making

processes, with all of their narratives referring to a sense of disempowerment (they might not have an opportunity to get their views and situation across to the court) and lack of trust in the legal system (they did not believe that they would be treated fairly).

Further thematic similarities may be seen between the two groups of 'court case' narratives when one considers the inter-Traveller disputes (presented as Boxes 5.3 and 6.4). In both of these cases the initiating party was to some extent isolated from the Travelling community – perhaps as a result of their residence in a house - when they acted in an atypical manner and engaged with legal proceedings. It is therefore arguable that if the initiator had been resident of site, other Travellers would have attempted to block such a hostile action and sought some other way of negotiating shared residence. Variations do however exist in these narratives, in that Nesta's former partner was not in a close relationship with his children and indeed appeared to frequently fail to meet his responsibilities for their care when he was apart from the Travelling community. In addition, no specific dispute was noted as triggering the residence proceedings. Finally, and extremely importantly, the father had expressly criticised Nesta's lifestyle when applying for residence, thus breaching the moral contract between Travellers.

Thus, in Nesta's case, her former partner appears to have no way of validating his actions should he wish to reintegrate into the Travelling community, and as a result, his reputation is seriously damaged (see Chapter 4 for a discussion on social capital and reputation). Indeed, when undertaking fieldwork, prior to my obtaining an interview with Nesta, more than one person referred to the '*out of order*' or '*bizarre*' behaviour of her former partner.

Particularly interesting is the fact that in all 'court' cases involving two Travellers (Nesta, Teresa, and Jill) despite the level of distress caused by the proceedings, the parties have reverted to an informal arrangement once the case is over. While Teresa's situation is rather more ambiguous as an 'initiator', in Nesta's and Jill's cases, by negating the fathers' unacceptable behaviour, the informants have caused minimal disruption to the community (allowing both parties to remain in contact over their children, or be present on the same site) and retained their moral status by responding

(but not disproportionately, or vindictively) to the court case brought about by the father's actions. Fascinatingly, this process mirrors that noted among a variety of 'tribal' or 'kinship' based societies where justice is based upon a 'restorative' rather than a 'punitive' moral (see McNamara, 1995; Olsen et. al., 1995; Community Policing Consortium, undated; Lemon, 2000).

A balancing act is therefore being performed between informants establishing their legal status vis a vis their children, (or ensuring the children's protection), acknowledging the children's autonomy and right to a relationship with their father, and also respecting the former partner's Traveller identity. In the 'respondent' cases, neither mother expressed any anger towards their ex-partner, referring to the father in a way which indicated that he was inadequate or thoughtless rather than consciously vicious. This perception of the father's *behaviour* as problematic, rather than his being a bad person, is typical of the non-judgementalism identified as a core tenet of Traveller ideologies, and once again relates to a 'restorative' model of justice, where individuals are perceived of as stepping outside of their community or tribal mandated norms as a result of outside influences (such as drugs, mental health issues or alcohol) which are beyond their control (Evan-Pritchard, 1940; Miller, 2000; Diversity resources, 20002; Tulugak, 2001)

"basically he just didn't think about it – his solicitor was the solicitor across the road from his house and I think one day he just walked over and did it, and didn't realise what he was doing" NESTA

Similarly, when discussing the aftermath of the case both Nesta and Jill focussed on the positive outcomes for their children, downplaying their own negative experiences caused by their ex-partners' actions or omissions.

"it's some ways its an improvement on what it was like before, especially with [older child] ...she just sort of thinks I'm definitely staying with my mum but I can still see my Dad". NESTA

“he’s been away [in prison] for a while, really got himself together” JILL

“he really appreciated it basically it’s given him a real jolt, a slap around the face and

he “he’s been away [in prison] for a while, really got himself together” JILL

“he really appreciated it basically it’s given him a real jolt, a slap around the face and he’s keeping it together” PETE (joint interview with two current partners)

Teresa’s narrative, Chapter 5) is in stark contrast to the narratives of informants who were taken to court by settled ex-partners following a change of lifestyle. In both cases where former husbands initiated residence after the mother began Travelling, the women referred to the father’s attempts to ‘destroy’ their autonomy through criticism of their lifestyle. This perception may relate to the duration and formalised status of the former relationship, with ex-husbands seen as seeking to *control* their former spouse through the children, and further, supports the thesis rehearsed in the previous chapter that non-Traveller ‘partner cases’ appear to involve the greatest degree of expressed hostility, often with a sub-text of wishing to totally exclude a parent from a child’s life.

Informants experience of the legal system

Of the six ‘respondent’ cases considered in this chapter, five informants have proceeded through the court system. However, only four of these Travellers have had contact with a solicitor (Don, Rebecca, Lucy and Nesta), as Jill and her current partner failed to take legal advice and were un-represented throughout the case, resorting to a combination of ‘self-help’ techniques and simple trust that their children would be returned to them once Social Services investigations had been carried out. In the remainder of this chapter we therefore examine ‘respondents’ interactions with legal officers, to enable a contemplation of their subjective experiences and tactics adopted, over the course of the proceedings.

Solicitors

Both informants involved in a residence dispute with their former husband approached firms on the basis of a personal recommendation from other Travellers (Rebecca and Lucy), and thus were able to access lawyers with some degree of cultural knowledge, and in one case, experience of Traveller family cases. Nesta

(dispute with other Traveller) initially sought advice through Women's Aid, who referred her to a solicitor in the area where the residence proceedings were held, however she subsequently obtained representation from a family law firm in the town where she settled when awarded interim residence of her children. Don (social services case) approached a 'High Street' firm in the first instance, although he later transferred solicitors after becoming dissatisfied with the advice received.

Overall, two solicitors had had previous contact with Travellers, a far higher percentage than is found in 'initiator' cases. Rebecca received a word of mouth recommendation to use a particular firm because of their prior experience of Traveller family law cases, and the second firm of lawyers used by Don had "*had contact with people that were on a similar path to me*".

Two (female) informants reported that they were satisfied with the level of emotional support and sympathy they received from their solicitors, even though neither woman ultimately obtained their desired result in court.

"we didn't win but I felt listened to by her" LUCY

The references to the importance of a 'trust based' relationship with a lawyer are in line with Smart and Neale's findings (1999, pp161-163) that female informants seek a source of support and advice in their lawyer, whereas males tended to regard a solicitor as an employee to be instructed on the required result. In both of the above cases, the informants remained with one solicitor throughout.

Two informants transferred solicitors during their course of their case. Don as a result of dissatisfaction with his lawyers (see above re: male expectations of legal advice), and Nesta because of refusal of Legal Aid on financial grounds, (although she was able to obtain representation at a later date when she had given up work). Both of these informants reported that their first solicitors were generally unsupportive, and fairly negative about their chances of success in the case. On reflection, (and echoing comments made by 'initiators' both Don and Nesta stated that they believed their first

lawyers had been biased against Travellers, although neither Traveller had realised this at the time.

“he turned out to be quite prejudiced against it [Travelling]” DON

“prejudiced – 100% definitely” NESTA

Nesta also referred to the variation in attitude she found amongst lawyers as relating to the locality of their practice (see further Jon’s comments, Appendix 6 and Chapter 5). While she was fairly satisfied with the assistance she received from her second (city based) solicitor who had a “*lack of knowledge rather than prejudice*”, Nesta stated that the town where the case was initiated (and where her first lawyer practiced) had a marked anti-Traveller ethos. This may also account in part for the tone of her ex-partner’s supporting statements, if he was following legal advice in making allegations against her lifestyle as a way of strengthening his residence case.

Although Don and Nesta obtained their desired result in court, both informants downplayed the role of their solicitor in actually obtaining an order on their behalf, referring to the fact that the bulk of the work which enabled the return of their children had been undertaken by Traveller-friendly agencies, themselves and their friends, prior to the stage when they switched lawyers.

“it wasn’t a very difficult court case [by that time]” DON

“by the time I’d moved to [city] the whole thing was played out” NESTA

Although neither informant was *negative* about their second lawyers, by the time of final court hearings, both Nesta and Don had abandoned their belief in solicitors’ ability to understand their lifestyle, and thus resorted to self-help tactics (see below). As such, both Nesta and Don (and Teresa, Chapter 5) worked *with* their solicitors, undertaking background work to build up their case as a responsible parent, then instructing their lawyers in the ways in which the supporting documentation could be used. In essence, rather than following their solicitor’s advice, the Travellers in these cases used their lawyers as mouthpieces to enable the return of their children, while

the informants followed an essentially self-devised plan of action (and see Jill's tactics in relation to social workers/CWOs).

Tactics

As with the 'initiators' every informant in the group was advised by their lawyer to settle, or (in Rebecca's case) to remain housed. Lucy was instructed by her solicitor to return to the matrimonial home, and by demonstrating her settlement in the same premises as the children establish her credentials as a 'normal' mother, on the assumption that a court would fail to understand the shared parenting arrangement which had previously existed between the couple. Nesta's (and Jill's) shared parenting arrangements were also open to misinterpretation by the court, with all three mothers being perceived of as abandoning their children by wilfully Travelling and leaving the children in a house with their father.

Once more mirroring the 'initiator' cases, solicitors also advised their clients to downplay their Traveller identity. Nesta however, had already decided on following this plan after discussion with other Travellers, and as such found the decision less traumatic than some other informants. She had already been made aware of the possible consequences of presenting herself "*as a Traveller*" through conversations with her first lawyer and the CWO appointed at the directions hearing, and as such elected to appear as a "*reformed character*", a choice of phrasing which indicates her perceptions that nomadism was equated with poor parenting.

"I shouldn't have had to move into a house to get them back or changed my lifestyle or anything just to get my kids back but at the time I was quite happy to do it.....I was playing that whole Travelling thing down" NESTA

Don in particular found his solicitors' advice difficult to follow, reporting that after nearly a year of living in the recommended manner he had needed to be prescribed anti-depressant drugs for the first time in his life.

"they were trying to convince me to let go of the Travelling world because it was wrong, especially for children.....there was about eight or nine months during the case when I was convinced [by his solicitors] that if I wanted to get custody of the children then I had to have my lifestyle looking like this. They even did it in details you know, wallpaper, cut garden, trimmed hair, 8 'til 4 job....and I couldn't do it, I tried it, but I just could not do it" **DON**

Finally, it is interesting to note that the three informants who became Travellers after formal marriages and the birth of their children (Lucy, Rebecca and Don: 'born-again Travellers') found the requirement to hide their adopted identity more difficult than did informants who had been nomadic since young adulthood. However, the implications of this finding are unclear and perhaps more suited to psychological research.

Court Welfare Officers (CWOs) and Social Workers (SWs)

All members of the group were interviewed by CWOs or SWs. For convenience both types of professional will be dealt with together as they follow a common strand of initial social work training prior to specialisation to probation/CWO or child protection work. Training paths for CWOs are currently in the process of amendment following the implementation of CAFCASS (Child & Family Court Advisory & Support Services) on 1st April 2001. In the near future CWOs will all be specialist family and child care workers, which may improve user satisfaction with the service (see French et. al., 2000; Buchanan et. al., 2001).

CWOs were appointed at first Directions hearing in all residence cases. As Jill's case involved child protection issues rather than full residence proceedings, no CWO contact took place. However, both Jill and Don were interviewed by social workers in connection with their investigations. Don also had contact with three separate CWOs over the duration of his residence case.

Two informants remained with one CWO throughout their case (Lucy and Rebecca) and the remaining two Travellers (Don and Nesta) both dealt with more than one officer. All informants reported that they were unhappy with the CWO initially

appointed to their case. As with 'initiators' narratives, the most common reason given for dissatisfaction was officers' lack of cultural awareness, or clearly indicated preference for settled lifestyles.

"she left out everything, every single positive thing that we discussed...in the report she like uses quotes from my ex which are very negative about my lifestyle, nothing, no quotes from me about the positive things" **REBECCA**

"as I said to my solicitor, he [CWO] is white, male, middle-class and doesn't seem very bright actually. I just feel like what happens is he just sides with [husband] because that's what he feels like – he's connecting [with husband] because he doesn't know how to deal with me" **LUCY**

Two informants reported their dissatisfaction over their children's opinions being sidelined by the CWO, with resultant denial of their autonomy. Lucy was particularly irate that several of her older children, (who were over sixteen and thus not subject to the residence proceedings) were not interviewed by the officer until they insisted on making statements and attending at his office.

"they went to see the welfare officer even though he didn't particularly want to see him. He didn't see that it was relevant to speak to the other members of the family. I had to press, I was saying well 'we're all very close knit, we always make decisions together about what happens. We act like a community you know, I talk to my children about issues'" **LUCY**

Social Workers were also reported as lacking understanding of the dynamics of Traveller families, and the respect for children's autonomy articulated by informants. Don and Jill both referred to the problematic of convincing Social Workers that children could receive an adequate home education while Travelling, or when they did not wish to attend school. Education was also a focus when discussions arose around children moving from one parent to the other. Overall, informants held that allowing older children to make decisions relating to their own upbringing was good

parenting. Conversely, social workers and CWOs saw evidence of lack of care in fluid or 'unstable' arrangements.

"they had a lot of wrong information. They were trying to make out that the kids weren't being educated and that we didn't care. I stood up and said 'hang on a minute, they've had school reports saying they've attended school for a complete term last year'" JILL

"how can they say I was unstable...I might move around a lot and my lifestyle might be a bit different but I never go for very long without speaking to them" NESTA

Individual professionals were singled out for praise however, with informants noting that these officers were able to see beyond the apparent facts of a situation and recognise that a family was functioning well. Prior to Jill's children being returned to her care (and while the court was waiting from "references" from the school and health visitor), the social worker assigned to the family attended on site to see if it was a "suitable environment" for her sons.

"he came to [site] to check out the trailer. He just sort of sat down and had a cup of tea and then went again" JILL

"well yeah, and he looked in the – we had a big 20 foot Bluebird [caravan] and they had a really nice bedroom at the end of it – he had a look and went 'Oh yeah, I can see that it's all together' and that was that" PETE (joint interview with two current partners)

In this particular case, the social worker had operated in a culturally sensitive manner, discussing the situation in advance with the Traveller Health Visitor who knew the family well. Having obtained adequate background information, he thereafter made occasional brief visits to the family to record that all was well.

Don and Nesta both reported their satisfaction with the substitute CWOs appointed to their cases, having experienced significant culture clashes with the original officers who seemed completely unaware of nomadic lifestyles.

On relocating and settling into a house, Nesta had a new CWO appointed to her case. In this instance, Nesta was so successful in 'downplaying' her nomadic identity that she was aware the officer considered she had settled on a permanent basis.

"one lady, she's actually quite nice, but I was going on the thing of I'm now living in a house and doing the stable [thing] and I'm putting them into school, and this is what I'm doing. Well I was doing it then but it wasn't something that I saw as being definitely the way I'm always going to be" NESTA

Don, following advice from Traveller friends, and having changed solicitors to a firm with some knowledge of Travellers, insisted that his CWO was replaced. He reported that the first two officers were "*frightened*" of the idea of Travellers and "*very middle class*", but when he demanded yet another CWO report be made "*this time the system started picking up that we'd better have someone who knows what's what*". To his delight, the officer who was appointed had extensive experience of Travellers.

"amazing, amazing, absolutely, he'd been a Traveller, got his own kid, gone through the system. He was spot on, and he came at me two ways, first of all it was friendship and second one was 'tactics' he called it...'I'll show you how to use this bit of trickery and you play the game to this degree but don't forget you're only playing a game' and that's how we got through it" DON

This CWO was the only non-legal professional who had experience of Travellers prior to the informant's case.

Informant's self-help tactics

Four informants reported that they took steps to obtain supporting documentation to aid their case. In each case the Traveller involved was working on the recommendation of friends and Traveller support groups, rather than following their solicitor's advice.

This behaviour is in contrast to the 'initiator' cases, where it was only when a court welfare officer or solicitor requested information that supporting references were gathered. This findings is therefore suggestive of the proposition that respondents to residence cases are willing to behave in a *proactive* manner when taken to court (I will do everything that I can do to keep my children), while initiators will only behave *reactively* once proceedings have commenced (I will bring a case but require the other party to prove that they can justify their actions which triggered the dispute). If this proposition is correct, it may be that 'initiators' believe that by bringing legal action they have compromised the ideological contract and are in a sense morally diminished. Therefore, by arming themselves with evidence of their 'good parenting' and by analogy demonstrating that the opposite party is a 'bad parent' they would simply compound the ethical dilemma by behaving in a disproportionately adversarial manner.

Of the 'self-help' tactics undertaken by Travellers in this group, two informants obtained reports from schools and nurseries their children had attended and Health Visitors and doctors' statements (Jill and Nesta). In both of these cases the mothers were unrepresented in court, and requested that the agencies faxed information directly to the CWO/social services department involved. Rebecca and Don, (informants who both had older children, and access to legal advice) approached home education experts and sought proof that their children were at an educational standard appropriate to their age. In addition, these latter informants clarified their legal position regarding teaching their children at home, and then presented the information to their solicitors who were concerned over this aspect of their cases.

"they'd sent me letters saying 'unless your children attend school a certain amount of hours we're going to take you back to court' and I wrote a letter back saying 'sorry m
 "they'd sent me letters saying 'unless your children attend school a certain amount of to hours we're going to take you back to court' and I wrote a letter back saying 'sorry mate, they're not going to school any day, I'm teaching them'...this is what [CWO] C told me" DON

Care proceedings against Don and Jill are included in this section. Two informants were unrepresented at the proceedings, (Jill and Nesta); in Nesta's case, because she

was ineligible for legal aid. Jill and her partner had also had no time to prepare for the hearing, as they driven through the night to attend the case conference on her children.

“we walked into this room and there were about four policemen a couple of solicitors, all these people, all these straight people in suits, and I was really intimidated... no-one said a word and then after sitting there in silence for five minutes the man who was the organiser said ‘do you know what’s happening’ and we said ‘we haven’t got a clue’ so he took us outside and sort of explained what was going on and then he started the meeting and everyone showed their angle, their concerns” PETE (Jill’s partner).

The couple did not attend the actual court hearing, as they were advised by the senior social worker that the care order would simply be extended on each occasion. On returning back to site Jill and Pete commenced “*running around like mad*” contacting health visitors, schools and doctors to obtain supporting documentation. All paper work was then faxed through to the relevant social worker for consideration. Two further case conferences ensued and on neither occasion did Jill and her partner have a solicitor present as “*we didn’t think we needed to*”. Following the second case conference, at which the children’s education was considered in depth, the couple moved to their old site and remained there, as schooling was available near the site. An order was granted allowing them supervised contact with the children for the duration of the proceedings, and a local social worker was detailed to carry out investigations on the family (see above).

At the third case conference the couple were advised that the children would be returned to them and “*we went and collected them*”. Terms of the return of the children included regular school attendance and that the boys remained on the child protection register. Social worker and health visitor visits rapidly dropped away “*she came and poked her head round the door and had a look but they knew it was alright after that as they sort of knew us*”, and following the children’s removal from the child protection register the family returned to work-related Travelling.

For the six months when regular social work visits occurred, and school monitoring was taking place, the family was forced to remain on one site, with significant decrease in work opportunities and resultant financial hardship. Jill reported that social workers varied in attitude *"half of them was as bad as I thought they'd be, and the other half were really, really nice...they weren't prejudiced at all"*, although the social services team for her local site appeared friendlier than in the area where the case took place. Overall, the major concern reported by the family was the fact that care proceedings had been commenced without any effort made to contact them. Jill believed that social workers proceeded on assumptions of maternal neglect rather than asking the children about the reality of the situation, as the fact that Travellers were involved meant *"they weren't interested"*.

Nesta attended court on three occasions, twice unrepresented. By the Directions hearing she had obtained initial advice from a volunteer working for Women's Aid, *"she looked at the papers I'd got [and explained] the prohibited steps order"* and subsequently from the solicitor who proved unable to represent her in court when legal aid was refused. In addition, she had entered into discussions with other Travellers and begun to prepare a bundle of supporting statements to assist her case.

"I just went into court with what I'd collected" NESTA

The case was adjourned for reports, and Nesta was granted supervised contact with her children. By this time she had decided that the best tactic would be to move into housing, and Traveller friends assisted her in finding a house in a city. Despite these tactics she *"was doubtful about getting them back 'cos they were living in a secure environment and courts don't like disturbing them"*. During the three months when reports were being prepared, Nesta regularly attended at her former partner's house to see the children, but she was not allowed to remove them from the premises *"it wasn't very nice"*.

At the second hearing, assisted by the fact that she had moved into a house, and that the father's parents had contacted the CWO and suggested the children would be

better with their mother, Nesta felt fairly confident that the children would be returned to her care.

“the CWO phoned the school they were going to [be enrolled at], to check they had places and things like that...they wanted to check that I was actually living in this house, the day of the court hearing they phoned my landlord up, things like that...it was definitely by no means over, but I sort of knew then that they weren't going to take them from a supposedly stable home environment to give them back to me just to take them away and give them back to him” NESTA

Following the return of the children on an interim basis, Nesta has “*lots of court welfare visits*” prior to the return date for the case. A contact order had been awarded to the father at the second hearing but he failed to make use of this right, and did not attend any further CWO meetings once interim residence had passed to the informant (and see Teresa's case, Chapter 5, for a similar pattern).

As Nesta was legally represented at the final hearing, the case proceeded fairly rapidly, with the prohibited steps order being removed, and full residence granted to her without legal argument. The father failed to attend court on this occasion, and the County Court judge who heard the case “*wasn't really interested*”. Although the children were returned to Nesta, in a turn of phrase remarkably similar to that used by Josh (Chapter 5) she reported her belief that had she followed other tactics, residence would have passed to her children's father.

“I could tell that if I'd gone in there saying you know, I am a Traveller, and this is what I'm doing, that I wouldn't have got my kids back” NESTA

The remaining three informants (Don, Rebecca and Lucy) were legally represented throughout their cases. Don attended court on two occasions in relation to the care order on his son, and twice for residence proceedings. Lucy and Rebecca both attended court twice, once for Directions and once for full hearing. Rebecca will attend court again, as she is in receipt of an interim residence order.

Don's case was heard by magistrates, and Lucy and Rebecca both appeared before County Court judges. While initiators generally preferred to have their case listed before a judge, believing that the quality of trial was superior (see Chapter 5), Lucy reported that she was dissatisfied with the way the case was heard (see below). Overall, Rebecca expressed the greatest degree of satisfaction with proceedings and outcome of the 'legally represented' group.

As with Nesta, Rebecca was issued with an ex parte prohibited steps order (PSO) and residence application. However, in her case, the orders were served "*at twenty to one in the morning*" by a bailiff, causing considerable distress to the informant and her children. The basis of the application was the informant's allegation that Rebecca "*had left the country when he questioned [her] about the children not going to school*" and as such, without an ex parte PSO it was likely that she would flee the UK. The hearing had been set for the following morning at a court nearly two hundred miles from her house and thus Rebecca was faced with an urgent need to defer proceedings until she could obtain advice and representation.

Through Traveller contacts (who in *these* circumstances, fully supported the need to obtain legal advice as a matter of urgency) Rebecca was able to obtain the number of a Traveller friendly solicitor whom she phoned that night. The following morning the solicitor contacted the court, obtained an adjournment and had the case transferred to Rebecca's locality. In common with both Nesta and Jill, Rebecca was deeply disturbed that she was not given more notice of the court date, as during the first hearing it became clear that her husband's solicitors had had her address for at least two weeks prior to serving the papers.

Although Rebecca's solicitor warned that her ex partner would obtain a contact order, she was advised by that it was unlikely that residence would pass to the father. Despite this advice, (and contrary to typical 'Traveller behaviours'), Rebecca initially remained opposed to her former partner having contact, but has subsequently accepted that "*now he's found me maybe it's time that he can see [the children] again and perhaps start a relationship with them*"

Despite her concerns over judicial prejudice, at the Directions hearing Rebecca found the County Court judge “*even handed...no prejudice.. in fact everything my ex-husband was asking for, he said no*”. Leave was refused for a social services report on the children as the father had no proof that they were in any way neglected and although Rebecca had not alleged violence from her ex-partner, when she claimed that he demeaned her lifestyle to the children and behaved in an intimidating manner, the judge refused to allow the father access to her address. CWO reports were ordered, and (following representations by Rebecca), contact was granted to the father to take place at a contact centre.

“because the children hadn’t seen him for so long, and because of the way it was all presented to us in the middle of the night, they were actually very scared about seeing him” REBECCA

Thus, the interim orders made in a location with a high Traveller population (and accordingly experienced judges) reversed the pattern found in other cases, where Traveller parents usually reported that *their* contact was limited. In addition, the judge ordered that the father should attend on site or where the mother designated, and have contact with the children in their own environment on one occasion prior to the next hearing, leading the informant to record, that “*I was quite impressed*”.

The court return date was listed for after CWO reports, and while, as referred to above, Rebecca was seriously concerned about the accuracy of the reports, and potential bias from the officer concerned, she was subsequently advised by her solicitor that the father had been “*told that it would be unrealistic to go for residency*” in the light of the CWO’s findings. Subsequently, the father agreed to drop the PSO in exchange for ‘agreed contact’ and at time of interview, the parents were working to a timetable of staying contact on one weekend a month. Following the judge ‘rubber-stamping’ the parental agreement, Rebecca has returned to Travelling, as she is confident that the father will not obtain residence, given that the judge appeared unworried by the children’s nomadic lifestyle, and moreover, on his insistence that the father visits the children on site for contact visits. Although Rebecca reports that her ex-husband does not appear “*very happy*” with the arrangements, she stated that he

discussed Travelling with several teenage boys when he attended to collect the children for contact enabling him to assess the practicalities of such a lifestyle. On reflection, Rebecca believes that the fact the judge is based in an area with numerous Travellers, **may** have had some impact on his attitudes and orders made, although “*I didn't get the impression he was particularly culturally aware*”.

In contrast to Rebecca's experience, both Don and Lucy (neither of whom was resident in an area with a noticeable Traveller population) reported that the court displayed suspicion of their lifestyles. Don's narrative of court experiences focussed on the first full residence case, at the time when his firm of solicitors were recommending settlement into housing and downplaying of his Traveller identity.

“I felt like a criminal, every time I tried to talk to say something I was shouted at ‘you, stop moving’, ‘you’re not allowed to speak yet’....they talked to each other really, I’d become a third party.. the CWO gave report based on what she thought rather than what actually happened and looking back, if I’d been wiser I could have stood up and said ‘hang on a minute’ but at that point. No” **DON**

At that hearing, Don was granted interim residence of his son on condition that he attended a Social Services run “*reprogramming session*” with the children on a bi-monthly basis. One monthly session would take place with a social worker where the family interactions would be discussed, and alternate meeting would involve a “*group family day for different families*”. Although Don was aware that he could lose residence of his children if he failed to attend the court ordered sessions, he reported that he experienced a significant culture clash with the social workers who ran the sessions (see further Julie's comments on CWOs, Chapter 5)

“my attitude was ‘oh no, my kids are having a great time on Traveller sites’ and they’d be ‘no no no, that’s not right, you’re kids are having a great time at school and in your house’, and that was what it was like basically” **DON**

After attending sessions for approximately four months, Don was fortunate in being appointed a new CWO (with Traveller experience) and as a result of the officer's

guidance and the informant's increased knowledge of legal rights and responsibilities relating to educational matters "*the pressure started peaking off*". Having established the right to home educate his children, coupled with the positive CWO reports from the new officer, when Don returned to court for a review of residence the case "*went through on paper*". After one further court appearance "*to prove I was educating my kids, but that was really just in a meeting room*" Don's children were removed from the 'at risk' register. Shortly afterwards the family became fully nomadic, living on the road until Don's son had left home and his daughter began attending college.

Lucy *also* reported that she felt disempowered and discriminated against during court hearings. Initially, at the point of her divorce, (18 months prior to her case) no residence order was made in respect of Lucy's children as the judge was satisfied as to the parents' arrangements for their care. Thus it was not until the residence hearing for her younger children that Lucy experienced adversarial proceedings (see Appendix 6). At this time, Lucy reported that the judge focussed on the unconventional nature of the parents' shared parenting arrangements, and the fact that she had not been living in the marital home prior to proceedings. A further strand of dispute related to the mother's willingness to allow her fourth child (then aged 13) autonomy in decisions over his education, allowing him to opt out of school for a period when he found life particularly stressful.

"I didn't take him out [of school] for very long, but it was over September...he had started getting into trouble and the final straw came when there was a misunderstanding or something and a teacher accused him of stealing...typical distressed pattern and I just flipped, I went 'I'm not having him treated like that, he's not a liar, he's not a thief, and I'm taking him out of school'" LUCY

Lucy noted that the judge was especially concerned about her willingness to take her son Travelling rather than insisting he remained in school, and moreover, that he continually returned to her Travelling contacts and plans for the future should she obtain residence of the younger children.

"he obviously sort of understood normal nine to five life and my lifestyle didn't fit in with anything he could see as OK...I had a Portugese boyfriend at the time and they brought that up in court...you know 'you've got a Portugese boyfriend and you've got friends that live in trucks and you've got a truck' it was all brought up as well as the education thing...basically it was 'your socialist views, you're obviously not suitable because of this and this, and all those sort of points.'" LUCY

In support of the informant's supposition that her attitudes and nomadic lifestyle was regarded as a pernicious influence on her children, Lucy further reported that when her oldest daughter gave evidence, the young woman's personal circumstances (she was a single mother aged 19) were highlighted for the benefit of the judge.

"I saw it as a bit of a – when we were actually in court it felt like wow this is a witch-hunt – you know this is how they've done it for hundreds of years and it hasn't changed.....they things they said to [daughter] were '*oh basically you're following in your mother's footsteps*'... they made her cry and it was just like *wwwwhhhh* this is a family court, we're not criminals, this is like actually they're out of order" LUCY

Lucy left court having lost residence of her children, and being ordered to leave the family home within a few days. "*the judge said we'd better keep the status quo which is the father stays in the house and looks after the children....my youngest was like 'well I want to be able to see both my parents' but the interpretation was that the boys were pressurised by me because they mentioned the house had been bought by my parents*".

Although "*reasonable contact*" was ordered to the informant, no formal arrangements were made, and Lucy reported that she was forced to telephone the house to attempt to contact her younger children. Within a month all of the family who were living at home (apart from the youngest child) had moved to live with their mother. Contact with the youngest child took place mainly through the auspices of the older siblings, or when he telephoned Lucy to arrange a meeting. Some months later, Lucy's son opted to live with the rest of the family, and at present, the children have occasional limited contact with their father when they choose to see him.

Conclusions

In this chapter we have provided a discussion on informants' experience of responding to residence cases. While it is clear that the timing of legal action has in all cases been removed from the control of the informants, creating a sense of fear and urgency, surprisingly little variation in attitude exists between respondents and initiators. 'Respondents' however appear able to access community support and validation of their actions at a more rapid rate than do initiators, and in respect of their 'victim' status, do not appear to be required to undertake a validation process prior to seeking legal advice.

As with 'initiators', inter-Traveller disputes appear exceptional, but somewhat surprisingly, where such cases do occur, the same process of 'post-court' negotiation appears to take place, providing further evidence of the importance of establishing a mediated compromise in order to retain the status quo within the nomadic community.

Similarities also exist between the two 'court case' samples in terms of findings relating to the cultural awareness of legal officials. Overall, satisfaction levels with solicitors, court welfare officers and social workers were low. However, among the sample who proceeded to court, all but one of the respondents obtained their desired outcome, once again indicating that the legal system functions fairly efficiently when dealing with inquisitorial proceedings.

Noticeably (once interim proceedings have been dealt with and PSOs lifted, etc.) a tendency existed for more 'respondents' than 'initiators' to achieve orders which accurately reflected the reality of their parenting situation, although this may well relate to the preponderance of residence orders and scarcity of split residence dispositions among this sub-sample.

Of particular interest, is the fact that supervised contact (either formally through a contact centre, or by an ex-partner with resultant issues of increased conflict and tension) were ordered in four residence cases. When one considers the overall sample of Travellers who attended court, either in response to proceedings or when initiating contact or residence action, the number of informants who were ordered to attend

supervised sessions is astonishingly high (seven out of the nine Travellers who proceeded to court). Although no figures are in the public domain on the prevalence of supervised contact, new research is soon to commence (University of Leeds, 2002) which will provide some data on this issue and it will be interesting to consider how frequently such orders are made, and whether Travellers are disproportionately represented amongst the population subject to such orders. Prohibited steps orders were also made in three cases out of a possible nine, and this figure would also appear to be higher than expected. Once again a comparative figure is not currently available, although figures from the Lord Chancellor's Department for 2000 (most recent figures available) suggest that PSOs account for no more than 10% of all court orders made under s8 of the Children Act. It is of note that PSOs were made in three out of a possible five cases where a Traveller had physical custody of their children (e.g not where the children had been removed under a care order, or where they were resident with the other parent) and this would imply that courts believed that a Traveller parent would abduct a child from the jurisdiction rather than attend at court if an order was not made.

When considering the whole 'court case' sample, educational themes featured in a total of six out of a possible nine cases; and moreover in three residence cases (Don, Nesta and Jill) steps were taken to ensure that children's attendance was monitored by a school prior to the return of the child to the parents. Given the prevalence of home education amongst Travellers and the necessity of free movement to facilitate work opportunities, this type of court order causes significant problems for a family who wish to remain nomadic.

Of the six informants dealt with in this chapter, three Travellers had children who were not subject to proceedings (Jill, Don and Jammy). Jammy and Jill's other children have no contact with their fathers so informal contact arrangements do not exist in these cases. Don however, who had a child in a subsequent relationship, has come to an informal contact arrangement with the mother. In this case, the couple signed a parental responsibility agreement after their relationship ended, and Don is clear that such actions were taken in the light of his court experiences. This is the only case in the full sample where an unmarried father has taken steps to regularise his relationship with a child, and Don feels extremely strongly that having Parental

Responsibility enables him to participate in decisions on his child's education if the school should become concerned over her seasonal Travelling. At present, the child spends block visits with her father during the summer when he is Travelling, and occasional weekends with him in his house.

CHAPTER 7

TRAVELLERS AND EXTRA-LEGAL FAMILY ARRANGEMENTS

Introduction

In this chapter we move away from 'legalised' dispute resolution and consider Travellers' preferred parenting patterns in circumstances where community dispute resolution has prevailed. Given that this sub-sample have persisted with 'extra-legal' family arrangements (despite the fact that some informants have experienced quite difficult circumstances), we explore *these* Travellers' perceptions and expectations of formal court proceedings and, in the light of the court cases discussed in earlier chapters, consider how justified they are in their opinions.

Informants' narratives have consistently reiterated the importance of community support and social expectations when raising children as a separated parent. Accordingly, in this section of the thesis we also examine case studies to enable a consideration of the ways in which the Traveller community supports its members in sustaining contact and shared parenting within a nomadic context. Despite the strengths and positive aspects of living within the Traveller community it is clear from some narratives that issues of violence, chaotic relationships and drug or alcohol addictions can be of major importance, both in terms of practical parenting concerns and also, for individual's personal biographies. Thus, in an exploration of the 'darker' side of parenting relationships we discuss how Travellers deal with (and through community assistance, overcome) such problematic areas of family life as domestic violence, routes into lone fatherhood and children's autonomy over residence decisions.

Domestic violence is of particular importance within this chapter, as despite the fact that I did not set out to examine this aspect of personal relationships, it has proved to be a key issue in understanding cultural responses to aggression, community support for vulnerable individuals, and the use and nature of social sanctions within the Traveller community. Over the past few decades, vast amounts of research have been carried out into the area of violence and abuse within personal relationships (e.g. Dobash & Dobash, 1992; Kelly, 1988; Stanko, 1990; Hamner & May, 1987; Kagan & Piper, 1999). The key finding of all of the literature in this area is that

violence is a means of exercising control and dominance within intimate relationships. Accordingly, despite the idealized equality found in 'pure type' relationships (Beck, 1992; Beck & Beck-Gersheim, 1995; Giddens 1992) domestic violence is a pervasive and insidious method of crude social control, where one party to a relationship (usually male – see Dept. of Health, 2000; British Crime Survey, 2001; Mirrlees-Black & Byron, 1999) attempts to ensure that they control the actions of other members of their household. Evidence from the British Crime Survey (Mirrlees-Black & Byron, 1999) further indicates that women living in poverty are most likely to experience domestic violence (suggesting that in times of stress males are more likely to assault their partners). Finally, an extremely strong correlation exists across all cultures between alcohol and drug use and violent assaults (see British Crime Survey, 2001; Dobash & Dobash, 1992; Home Office Research papers, 2001; NCADV, 2002; NTV, 2001; MRCSA, 2001).

Given that Traveller women tend to live in poverty (on all indices, e.g. access to goods and services, insecure financial income, and instability of home (see Webster & Millar, 2001)) and that a number of relationship narratives refer to alcohol or drug issues; it appears that members of this community should be at far greater risk of violent assault than most women in the mainstream population. Moreover, Traveller women (and their children) should also experience the resultant negative outcomes associated with such an 'at-risk' status (see Mullender & Morley, 1994; Radford et al., 1995; National Youth Agency, 2002; Dixon, 1995; Chamberlain, 2001).

However, perhaps surprisingly, not only was little variation found between the main-stream and Traveller population in terms of incidents of assault (see below), but those informants who had experienced domestic violence reported that they were able to 'escape' from a bus relatively easily and moreover received a very high level of support from their community in such circumstances. One particular interesting finding was that Traveller men who behaved in a violent manner to their partner (no narratives referred to violence toward children – in direct opposition to 'mainstream' findings which indicate a strong correlation between 'spousal assault' and abuse of children - see Hester & Radford, 1996; John, 1997; Hamner & May, 1987; NCH, 1994) were themselves subject to rapid 'community sanctions'. Such

punishments may vary from an offender being evicted from their vehicle and/or site (see Sutherland, 1987 and Community Policing Consortium, undated; for similar 'sentences' in other 'tribal' or kinship based communities) to occasional receipt of 'a beating'. In all cases an offender lost significant social capital and experienced ostracisation (Williams, 2001) from other Travellers familiar with their reputation (see Martin, 1998; 2002 and Greenfields, 1999).

While in this chapter it is not possible to do justice to the importance of this finding, or to fully consider the implications for this community of the extremely strong 'anti-violence' messages sent to those in abusive relationships, this area will be explored further in future papers. At this stage however, I would note that the gender-equality identified as a core value of Traveller society (see Chapter 4 and Appendix 5), when coupled with access to a close-knit community, (see below) creates an environment where the risk of on-going domestic abuse is significantly diminished. Ethnographic literature from several 'tribal' or kinship based cultures (see papers by Lambek, Mitchell and Nash; all in Counts, et. al. 1992;) indicates that a juxtaposition of "assertive women", female property ownership, high levels of parental investment in children, opportunities for financial independence for women, ease of female initiated divorce, low levels of marital privacy and co-residence with the woman's kin-group, all significantly diminish both the acceptability of, and opportunity for, spousal violence. Accordingly, over time, these practical constraints crystallize into a set of social codes which strongly sanctions domestic violence, regardless of the gender of the initiator.

Typically, in communities which conform to the above criteria, a man who is violent to his wife and/or children would be threatened with "exposure of his violence" (Lambek, 1992) and if he persisted, would be evicted from the settlement by the woman's family. Mitchell (1992) and Lambek (1992) both noted that a woman who continued to reside with a man who was violent towards her would also be placed under community pressure to leave her husband. Moreover, in a case where a child was exposed to violence by the father (Lambek, 1992) the mother was given a choice of leaving the man immediately, or giving the child to her kin-group and going into exile with her husband. Finally, in all of the communities referred to above, gossip is noted as a major force for social control with an individual who

behaves violently experiencing significant diminution of their reputation. I would therefore argue that within the Traveller context we are witnessing a 'classic' set of social control mechanisms as practiced by small, enclosed communities. Further, it is precisely because of the "de-emphasis on gender differences.....[and] community solidarity" (Mitchell, 1992) that we are able to identify a consensus of opinion (and action) when domestic violence occurs in the Traveller context, as in a more gendered (specifically patriarchal), society, male violence tends to be more widely accepted as a method of social control of women and other low status dependents (see Hester, Malos & Hague, 1999; Mullender & Morley, 1994; Scott, Walker & Gilmore, 1995; Aboriginal and Torres Strait Islanders Women's Task Force on DV, 2000).

While domestic violence is considered in more detail below, within this present text, it is only possible to touch upon certain aspects of gender equality and social control of aggression. Accordingly, abuse within personal relationships has been flagged up at this point in the thesis to indicate the focal importance of 'community' and gender dynamics in controlling problematic aspects of post-separation parenting behaviours. The reader is therefore advised to retain awareness of these issues when considering the ways in which Traveller society supports on-going parental contact, as it is clear that refusal to adhere to this fundamental aspect of the social contract will place an individual outside of the ideological contract and hence relegate them to a status of being 'nomadic' but exiled from the 'moral community'.

Having highlighted some key areas considered within this chapter, it is now time to re-introduce the sample who are central to this section of the research. Table 7.1 (below) provides information on current contact and residence arrangements for 'non-court' informants. This table may be considered in conjunction with Table 4.3 (Chapter 4) which indicates the number, duration and type of child bearing relationships each informant has entered into. Where informants have had children with more than one partner, subsequent parenting arrangements are indicated by the use of a lower case letter (e.g. a, b, etc.)

Table 7.1 Parenting arrangements of Travellers who have not been subject to legal intervention

NAME	Is Informant a Resident Parent?	Type of Contact between child/other parent	Other parent a Traveller?
ANDY	Yes	Occasional, casual	No
ASH	Shared Parenting	Shared parenting	Yes
DIGGER	No	Regular weekend contact with 4 children. No contact with 1 child.	5 children by different mothers No mothers have ever Travelled.
GEMMA	Yes	Regular weekend Contact	No
KATIE	Yes Yes	a) None b) Occasional, casual	Yes- deceased Yes
KATYA	Yes Yes Shared Parenting	a)None b)Occasional block visits c)Shared Parenting	Ex-Traveller – left community. Yes Yes
MAX	No	Winter: occasional block Summer: block contact	No
MICHAEL	Yes	Regular bi-monthly	No
PHILLIP	No	Winter: occasional Summer: Regular block	Yes
POLLY	No Yes Shared Parenting	a) None b) Occasional letters c) Split residence, one child with father, one with Mother. Separated siblings have block contact over holidays	No No Yes
ZELLA	Yes Shared Parenting	a) None b) Shared parenting	No Yes

Contact and Residence arrangements

Examination of the above table demonstrates that the eleven Traveller informants included in this section have had 21 child-bearing relationships (each relationship is referred to as a case). These are in addition to the five 'own arrangement' contact and residence cases reported by informants who had engaged in legal proceedings over some of their children. Only two informants in this sub-group (Digger and Phillip) are not resident parents, or engaged in shared or 'block' parenting.

Contact

Travellers reported contact arrangements as falling into three categories: '**casual**' where a child sees the 'absent' parent on an occasional basis, often in the context of accidental encounters (three cases); '**traditional**' where the 'absent' parent sees a child on a regular basis on set dates, (three cases); and '**block contact**', where the primary carer (usually the mother) has responsibility for a child for perhaps two-thirds of the year. Where block contact occurs, (three cases) the non-resident parent sees the child for occasional short-term contact, interspersed with one or two longish visits per year, each visit perhaps lasting in the region of two to three months. In an additional four cases, **no contact** takes place between the child and non-resident parent.

Residence

Residence arrangements exist in two forms. **Sole residence**, where one parent has overall responsibility for a child, providing daily care and taking all the major decisions relating to the child's daily life. The other parent generally does not a great deal of input into the child's upbringing and contact (where it exists) will be in one of the forms outlined above. Full **shared parenting** however, equates to a child spending approximately half of their time with each parent, with the resident parent having full responsibility for decision making and care while the child is with them. Communication between the parents is generally good, and mutual decision making may occur over major life events, such as moving a broad, education, etc. In the Traveller context, shared parenting usually involves a child moving between adults every two to three months (and see block contact, above).

Shared parenting

Four informants in the sub-sample practice shared parenting, making this the most common type of arrangement found among this group. The rhetoric of shared parenting imbues the language of Travellers when discussing the most desirable contact and residence patterns when children do not live with both parents. Regardless of the reality of contact, the overwhelming majority of interviewees referred to the ideal nature of this type of arrangement. Where a non-resident parent is engaged in a traditional or block contact arrangement, (Digger and Phillip) the expressed desire to move towards shared parenting is particularly strong "*she won't*

have it at the moment, but when he gets towards teenager time I have this feeling he'll probably want to come and live with me more" (Phillip).

The prevalence of the use of shared parenting language, (cited as desirable by twenty one out of twenty three interviewees) would tend to suggest that adherence to this view constitutes a normative value among Travellers, although practical behaviour may vary depending on personal preference or residential parents' concerns for their children's safety. Overall however, the findings of this study indicate that a higher proportion of Traveller parents engage in shared parenting than is found in the mainstream population (Smart & Neale, 1999; Maclean & Eekalaar, 1997; Smart & Stevens, 2000. and see further, Chapter 5) with eleven out of twenty three informants sharing residence in this way. Although all Travellers referred to the desirability of this arrangement, informants with a 'strong identity' appear marginally more likely to engage in such practical arrangements.

'Family of Choice'

Among the 'own arrangement' sample, shared parenting is found in five cases, including two where no blood tie exists between the child and the informant. These particular relationships can be counted as "family of choice" as the informant has no formal legal or moral duty towards the child. Zella and Polly are both engaged in shared parenting arrangements in relation to the child of a partner, in addition to their birth children.

Although Zella is no longer in a relationship with her second child's father, she continues to share parenting of the man's oldest son, 'Sol' as the child has no contact with his mother, and his father is a lone-parent Traveller. In addition, Sol's father shares parenting of both of Zella's children (see case study 7.1). This situation is similar to that reported by Jill in Chapter 6, and observational evidence leads to the supposition that such arrangements are accepted as unremarkable parenting practices among Travellers.

Polly has (unofficial) residence of her current partner's daughter. The arrangement began initially as one of shared parenting, but changed to residence as the child's [non-Traveller] mother sometimes *'forgot she was supposed to be looking after*

her.... so she ended up living with us which was better and more stable". Polly refers to the child as *"my third daughter"*, having fully incorporated her into the family, and it was not until some time into the interview that it became clear that Polly was not the child's birth mother.

'Traditional contact'

'Traditional' contact patterns, occur in three cases. Given the fact that evictions can occur rapidly and repeatedly, it is necessary for Travellers to retain flexibility in their contact arrangements, and it is therefore unusual for full-time Travellers to report this type of arrangement. However, two out of three informants practicing this type of contact had access to stable accommodation, (Michael is parked up on a work-related site, and Gemma travels seasonally). Both of these informants report that during the summer when they are more nomadic, this pattern of contact tends to change, and they (as resident parents) then take responsibility for ensuring that their children are delivered to the (housed) other parent for contact visits. In addition, Gemma and Michael report that the other parent will on occasion come and stay on site when collecting the children, as these cases involve a relatively low level of conflict (or in Michael's case, some degree of friendship) with the ex-partner. Digger, who is fully nomadic, and moreover has had five children from different relationships, reports significant problems in terms of logistics (and expense) in keeping in touch with his children through 'traditional' contact patterns.

"One night I went from [northern town] to Hampshire to pick [2nd child] up the next day and I went back again that night. The next day I went from [northern town] to Sussex - to pick up my second eldest daughter, and we drove from there to Kent to see my youngest daughter and then drove back to [northern town] that night and then back again the next day to drop them all off.....yeah I do get knackered, it's fucking hard, but at the end of it all it's important to them to know that I'm willing to put myself out for them". **DIGGER**

Digger's oldest daughter is now of an age where she is able to travel around the country on her own, being met by the informant at a point close to his current site. However, the three younger children with whom he has contact have to be collected

and delivered back to their mothers, a responsibility which the informant undertakes on a weekly basis, as he believes it is important that regular contact occurs, regardless of his nomadic lifestyle.

"I just do it wherever I am, sometimes it might move things a day or two either way, but at the end of it all - we just do it anyway". **DIGGER**

It is noteworthy that in cases where 'traditional' contact occurs, none of the other parents are Travellers, although in at least two cases (one of Digger's children, and Michael's ex-wife) the former partner has attended festivals in the past, and has had some considerable contact with Travellers apart from the informant. Insistence on this particular method of contact may therefore relate to the parents' ability to timetable activities, or retain continuity of contact, rather than consideration of the suitability of this pattern for highly nomadic informants.

'Casual contact'

Three children are in 'casual' contact with their other parent, and in two cases (Polly (b) and Katie (b)) this has been at the child's own urging, as they have reached the age when they wish to find out about their fathers who have been absent from their lives since very early childhood.

Katie left her second partner during pregnancy, following his drug use and domestic violence (see Appendix 6 and below for further discussion on this issue), however, after 'community policed' negotiations, the father was allowed to be present for the child's birth and first few weeks of the baby's life. Despite this contact, Katie decided that she could not sustain a parenting relationship with the father and she and her children subsequently left the area. No further contact occurred between the couple for some years, until Katie and her children re-encountered him at a festival. Although Katie reluctantly acknowledged the father's identity, this contact took place because of her son's interest in his paternity, and the older child's recognition of her mother's ex-partner. Since then contact has been occasional and resulting from chance encounters, with no plans made to further extend the relationship. "*I wouldn't leave [child] on his own with him, no way. I couldn't trust him... he's*

doing loads of heroin now, so I decided to stay well clear"

Polly's second daughter had had no contact with her father since her parents separated when she was a few months old (before Polly first encountered Travellers). Having initiated legal action for contact, the child's father failed to proceed with the case, and no further communication took place between father and daughter until very recently. At her daughter's urging, Polly has recently contacted her ex-partner's family, and occasional letters and photographs are now exchanged.

Finally, one lone father (Andy - see Appendix 6) reports that his toddler-age daughter sees her mother occasionally, although fairly regular contact occurs between the child and maternal relatives when the father is in their locality. Sole residence had passed to the father by the time the child was six months of age, with the informant reporting that *"she just sort of done her own thing and I done mine, and I ended up with [baby]"*. (See below for a further discussion on fathers' routes into lone parenthood).

No contact

Digger has no contact with his third child, as the mother had repartnered prior to his learning of her pregnancy, and she has since indicated that she *"does not want to know"*. In addition, four female lone parents report that their oldest child has no contact with his/her father, (although all of these women have had children in later relationships and have retained some degree of contact with the other parent). Two women (Katie and Zella) ended the parenting relationship during pregnancy as a result of their partner's drug use. Zella initially attempted to ensure that child contact took place (see Box 7.1) but subsequently broke off all communication with the father after he endangered her daughter. In contrast, Katie's oldest child has never (knowingly) met her father, as the family left the country shortly after the baby was born, only returning some years later. *"I saw him when she was about four and told him to leave us alone, so he did. And then he died when she was five"*.

The remaining women in this position (Polly and Katya) report that the fathers declined to have contact with their children once the relationship had ended during pregnancy. In one of these cases, the mother reported that she technically ended the

relationship, although she had half hoped that the father would become a regular part of her and the baby's life.

"it wasn't a very serious relationship and I think I was just really broody...he just sort of lost the plot a little and then I said to him 'go off and get yourself together'"

KATYA

The child's father "*drifted off*" and moved into settled accommodation, abandoning his links with the Traveller community. "*he tried to get another life somewhere and lost contact with all of his Travelling. He couldn't handle what was going on, not being with me and the baby and he just sort of shot off into another world to hide out*". Although Katya has attempted to establish contact with her son's father, (at the child's request), this has not been successful, as "*he just hasn't got his head round it, I think he feels inadequate or doesn't know how to relate to kids*"

Interestingly, only four Traveller parents (out of a total of 21 child-bearing relationships) are reported as having no contact or only casual contact with their children. When coupled with references to community norms of child centred parenting, (found throughout the narratives of the whole sample) this finding supports the proposition that considerable pressure is brought to bear on a parent who is perceived of as failing in their responsibilities to a child (see further Box 7.2). Two female informants (Zella and Katie), who reported that the Traveller father has no contact with their child, were clear that the decision to stop contact was made by *them*, based on the father's drug use. In both cases, the father attempted to keep in contact with the child but was 'warned off' by the informant. Digger has indicated his willingness to incorporate his unknown child into his complicated contact schedule should she ever wish to see him, but the mother has failed to respond to attempts at contact, effectively removing all options but to proceed to court, an action he will not take (see discussion on attitudes to legal action, below). Finally, Katya reported that the Traveller father who does not wish to see his son has abandoned his nomadic identity and "*tried to be something else*" (see above).

Informants expectations of formal legal proceedings

Travellers who have made their own parenting arrangements, unsurprisingly, adhere to the principle of 'avoidance' of the law discussed in depth in earlier chapters. Once again the twin themes of fear of discrimination and belief that parents should be able to communicate over their children dominated the discourse in this section of the interview. In addition, four of the 'own arrangement' sample (all of whom refused to engage with some elements of the research questions) reported that they had avoided seeking legal advice because they did not feel that it was relevant to their particular circumstances as expectations over on-going parenting were relatively unproblematic.

Given that a number of 'court sample' interviewees expressed their concerns over officials' lack of cultural awareness, *before* they had proceeded to court, it is of interest to consider how the nomadic community processes anecdotal information and observations of legal engagements and thus creates expectations of Traveller/court interactions. Thus in this section, we consider the level of knowledge of 'non-court' informants and contemplate if whether, in their own way, these interviewees are expressing as deep a mistrust of, and prejudice towards, the legal system as they believe Travellers receive from court officials.

Attitudes towards engaging with the court system

Four informants stated categorically that they would not engage in legal interactions over their children regardless of the circumstances. In common with Jammy (see Chapter 6) three of these informants adhered to a 'strong' Traveller identity and thus tended to consider themselves as marginalised from 'mainstream' society, and hence of greatest risk of anti-Traveller discrimination. The only informant in this group with a 'weaker' NT identity was of Traditional Traveller descent, and so Max's attitude may relate as much to his upbringing as to his adopted identity. Typical comments from 'would never go to court' informants are as follows:

"I'd be ashamed to ever consider doing that" MAX

"The way we do live is pretty – you don't get in contact with them [authorities] because it's a taboo thing, and you just do not do it. Which in some circumstances can get quite bad". KATIE

When asked how they would deal with a major conflict over children, all of these Travellers immediately considered a situation where their children were abducted, or contact was refused. All but one informant then referred to community assistance in ~~restoring the status quo~~

"If his dad nicked him... I'd just get three blokes and a shotgun and then go and get him back" KATIE

"If

hir, "I was thinking if I had to get the children I would just go and get them, but I

"I was thinking if I had to get the children I would just go and get them, but I wouldn't take the kids off her that's a fucking really cruel thing to do. But if I was thinking of that sort of thing I wouldn't involve social workers [and other authorities], I'd go and do it myself .. you could ask friends for help - it might not suit me personally — but for other people it would be better than going to court wouldn't it" MAX

Zella, who in the past has resorted to community assistance to regain her child from an ex-partner (see Box 7.1) also reported that should a formal attempt be made to remove her children from her, she would *"more likely do a runner than go through the system when I've got no faith in it"*.

In line with informants dealt with in preceding chapters, the rest of the sub-sample stated that they would only proceed to court where contact had been ended or a child was removed from their care.

Around half of the group believed that in their particular circumstances, should they ever need to go to court, they could expect a favourable outcome to a child related case. This attitude was particularly prevalent among informants with a 'weaker'

identity and accordingly closer links to mainstream society. Among this group, even if the other parent was housed, they remained confident over possible outcomes.

"I'd probably be as diplomatic as I could...because I don't think there's anything wrong with it [Travelling] as opposed to living in a house. I think, I don't know, but I *think* because I've got a degree I could wangle my way round it a lot better than he could, just because I've gotten myself an education first". **GEMMA**

"If I went to court I think I'd win, because most of the people I know respect where I'm at, and I would probably have enough people who would give me character references as to who and what and how". **MICHAEL**

Conversely, no 'strong' identity informants expressed confidence in their personal circumstances overcoming the structural inequalities of their social and economic position, if the other parent was settled.

"I don't think they would probably be completely sympathetic towards me because all of my children's mothers live in houses, they are all sort of settled and I'm not I live in a bus, I don't have a job I don't have an 'aircut, and I don't have anything that fits in with their view of what somebody should be. So yeah, basically, I don't think I'd have a leg to stand on" **DIGGER**

Expectations of officials' attitude towards Travellers

When asked to consider legal personnel's responses to Travellers engaged in court cases, informants with no direct experience of family law tended to consider the process to be a monolithic whole. However, in the few cases where individuals separated out the functions of various officials, they were most likely to refer to solicitors in positive terms, and court welfare officers negatively, echoing the statements made in previous chapters. Comments on CWOs are dealt with separately below.

Five informants referred to inherent prejudice against Travellers within the legal system, in two cases basing their comments on observations of family disputes

where legal intervention has occurred.

“apart from being a single father, I live on a site with — it’s like what toilet facilities have you got, what water have you got, and which we’ve got none, just water from garages and dig a hole somewhere”. **ANDY**

Interestingly, one Traveller provided a quasi-Foucaultian theory of state repression of alternative lifestyles, when discussing the perceived prejudice against nomads within the legal system.

“at the end of the day, those people who harass us, the police and the lawyers, are only agents aren’t they? They’re just agents of a corrupt state basically. They probably don’t know why they are doing what they are told to do” **DIGGER**.

Three informants considered officials lacked awareness about their lifestyle, feeling that ignorance rather than prejudice were responsible for anomalies in court outcomes.

“they would find it very difficult because they don’t live in the same lifestyle that I’m used to, and their concerns wouldn’t be like so important to me. Regarding like hygiene and places - stuff like that, I’m not relaxed on it, but not over zealous on it either”. **ASH**

“I wouldn’t suppose they’d be that sympathetic actually, I think that with [partner’s child] if her mum ever wanted her back, I think that’s something she would try and use. The fact that we are Travelling. I don’t know how the legal system would look on it....They might consider it unstable, whereas really it’s very stable because they’re still in this family unit”. **POLLY**

Finally, one informant’s personal experience of the family court system has left him irredeemably cynical about the way in which children’s lives were governed by arbitrary legal decisions.

"me dad married again and he was off working all the time and basically I was kicked out of the 'ouse all day 'cos me step-mum didn't want me around. It was shit you know – all the social services were involved 'cos I kept running away from home....I kept leaving 'ome 'til the magistrates said 'you can't live there any more' and they moved me to me mum's..... I just don't think they're [courts] any use".

MAX

Of the sub-sample, four informants had actual experience of lawyers through eviction cases, and while they were aware that in these circumstances they had encountered specialists who were used to working with Travellers, these interactions gave a sense of individuality within the legal system., rather than a monolithic attitude towards legal officials.

"I would work with the solicitor rather than against the solicitor. Although this lifestyle isn't in the system, I think you can work with it as well as not live in it."

GEMMA

"it very much depends on the solicitor" **ZELLA**

Informants with a more sophisticated knowledge of legal functionaries, were also most likely to comment on other officials, with three referring to either anecdotal evidence or their own observations of CWOs at work in Traveller settings. Although one informant (Polly) appeared fairly neutral, commenting on the fact that CWOs varied in the same way as lawyers, the other two Travellers were outspoken in their mistrust of CWOs, citing narrow-mindedness and prejudicial attitudes towards nomads.

"total fucking ignorance towards what's going on - where do they find them? I don't know. Where do they dig these people up from who are incapable of seeing things for what they are? It's total fear, people are scared to come onto site 'cos there's dogs that bark, and there's children that are dirty and they see scrapped cars and dirty dogs and it all looks very Mad Max to them and you know they judge by that and they do not stop and hear, and look, and do the job that they are paid to do, which is actually see the reality and the welfare of the kid" **ZELLA**

Legal Reality versus Anecdotal Tales

When considering informants' attitudes towards 'going to law' and their expectations of the court process, the similarities between this sub-group and Travellers who have actually experienced court proceedings are striking. While in part this may be explained by the groups' shared culture (and access to anecdotal tales of court interactions), it would appear that for most Travellers, concerns over access to justice in the legal arena are matched by their contemporaries' actual experience.

A comparison of the 'court' and 'non-court' informants reveals that approximately half of the 'non-court' Travellers believed that they would not encounter any particular problems over their lifestyle should they proceed to law. This is fairly much in line with the findings on attitudes dealt with in the previous two chapters. However, even where a Traveller does not expect to face concerns over their way of life (see Josh, Chapter 5 for example), legal officials often appear to be pre-occupied with matters such as education and the type of people a child will encounter on site. It may therefore be that some informants (and particularly seasonal Travellers) underestimate the necessity of convincing legal officials that they subscribe to many mainstream values over raising children (see Greenfields, 1999; Earle et. al., 1994).

Conversely, (and including *all* 'non-court' 'strong' identity Travellers - who are perhaps more cynical in their outlook, resulting from a greater degree of separatism from main-stream life) more than half of the informants reported that they believed legal officials were inherently suspicious of nomadic cultures, either because of a lack of knowledge or due to prejudice. Once again, no discernible difference exists between 'court' and 'non-court' groups in proportions of informants who hold this view.

While most 'non-court' informants do not feel able to comment on attitudes among a variety of legal professionals, some awareness exists of the fact that individual solicitors may be 'Traveller-friendly'. Where CWOs were discussed, a slightly higher number of informants felt that these officials were particularly lacking in

cultural awareness. Overall, no Travellers in the 'non-court' group appeared to consider that the legal system, (or those who worked within it), were particularly Traveller aware or supportive of their lifestyle.

Given that overall, little variation of opinion existed between 'court' and 'non court' groups, it is to be concluded that the only variable between the two is that 'court' Travellers were placed in a situation where they felt that they had no choice but to engage with the law. Accordingly, it may be presumed that many of the 'non-court' informants would react similarly if their parenting circumstances changed.

Finally, despite their lack of personal court experience, members of this sample appear relatively accurate in their assessment of officials' stance towards Travelling (or at least as reported by 'court' informants). In particular the 'own arrangement' group picked up on nomadism, access to education, stability of family life, and concerns around hygiene, as issues that could arouse concern within the legal setting, all matters which were reported as having a major impact on the process and outcome of legal cases.

COMMUNITY SUSTAINED PARENTING

In this section of the chapter, we consider the ways in which the New Traveller community supports post-separation parenting, allowing members to overcome problematic situations without recourse to the law. While many community practices arise from the practicalities of living a nomadic life; over time, and through adherence to a Travelling philosophy, such actions tend to become accepted as the model for dealing with family issues, regardless of whether both parties are Travelling (see Hirschi, 1969; Wardak, 2000 and earlier discussions on social control mechanisms). In this way; a combination of habitual practice and a recognition of the importance of restoring community solidarity, provide an explanation of why Travellers will tend to revert to pre-court arrangements once legal proceedings have finished (see above re: Travellers use of 'restorative model' of justice; Olsen et. al., 1995; Sutherland, 1987, etc.)

In this part of the study, both 'court' and 'non-court' cases are used to illustrate selected areas of family life. Studies of particular situations are drawn from 'non-court' cases, (shown in Boxes 7.1 and 7.2) but where appropriate, a consideration of 'court' cases is included, to demonstrate 'Traveller-appropriate' methods of dealing with issues.

Commitment to on-going parenting

Analysis of whole sample narratives reveals that a very strong sense of family responsibility is found among the Traveller community (see too, Webster, 1999; Earle et. al., 1994). All *Traveller* parents in this sample, as well as former partners and friends referred to in informants' narratives, sought to retain contact with children. Where contact has failed between Traveller parents and children (when the caring parent wishes it to continue) the parent with no contact has invariably distanced themselves from the community, thus avoiding criticism of their actions (see Sutherland, 1987; Fonesca, 1995 for a discussion of similar 'avoidance' techniques in Romanichal communities). Very few informants report that they do not have contact with a child, and where this occurs, Travellers are keen to indicate that the decision to exclude them from a child's life was taken by another party.

While the sample consists of a self-selected group who are willing to discuss their parenting arrangements, (and thus does not include adults who have *willingly* lost contact with a child), it appears true to say that in the close knit nomadic world, a parent who is seen as failing in their duty to a child (either to take up contact, or to allow contact to occur) will generally be subject to unfavourable comment and pressurised to conform to the moral contract (see also Webster 1999). As will be shown below (*risk factors and responsible parenting*) in certain circumstances a resident parent will receive support if they choose to veto contact where it cannot take place safely, but overall, community networks will usually exist to facilitate contact.

Of particular interest too, is the social expectation that even where a child has been conceived in a casual relationship, or a short-term contingent cohabitation, both parties bear responsibility for the welfare of the child *unless the mother elects to parent alone* (see Greenfields, 1999). In these situations, and even where the

relationship may have broken down prior to the birth of the child, shared parenting will still usually be aspired to, as shown by comments from 'casual conception' informants who have engaged in such parenting arrangements:

"well she's my child, so I've got to be partly responsible for her". MICK

This finding bears comparison with Smart & Stevens' study of cohabitation breakdown (2000), where the authors commented with surprise on a case of shared parenting growing out of a casual conception. In the case referred to by the above authors (p40) the parents had begun a 'fling' after meeting while 'Pete' was "travelling around the country". Although limited details were available about the parents' lifestyles, when considered with other references to travelling in India and communal housing schemes it is suggestive of the fact that the couple may have considerable knowledge of Travellers' expectations of responsible parenting, even if they were not themselves Travellers.

Facilitating contact when parents live at a distance

A pervasive theme within informants' narratives is the high degree of fluidity involved in full-time Traveller life, necessitated both by evictions, and following seasonal work. As such, 'block' contact (and shared parenting which involves a child moving between parents for several weeks or months at a time), is a practical recognition of the realities of a nomadic life.

Several benefits accrue from this type of contact arrangement. Firstly, block visits enable a child to retain a closer relationship with both parents (and extended families) than if considerable periods of time are spent travelling across the country for visits of a few days duration. Secondly, social expectations of equality of care are met, (or at least acknowledged) by a parent taking responsibility for a child for several consecutive weeks in a year, rather than for short contact sessions. Parents also value the degree of freedom allowed by these arrangements, as block parenting enables them to work or have a period of leisure without needing to concern themselves about their children. Finally, where block contact or shared parenting occurs, the financial costs of upkeep of a child are more equally divided between

the parents. Given that formal maintenance payments are the exception in the Traveller context, this division of expense can prove particularly helpful. It appears to be common practice for the parent in receipt of Child Benefit to pay this cash to the other parent at such times as the child is resident with them.

Overall, out of the whole sample of twenty-three informants, eleven Travellers are, or have (prior to court cases) been, actively engaged in shared parenting arrangements. Nearly two thirds of 'strong' identity, fully nomadic Travellers have undertaken block contact or shared residence, illustrating the practicalities of this type of childcare arrangements for these informants.

Conversely, only half of 'weaker' identity Travellers utilise block contact arrangements, with the remaining informants practicing 'traditional' or 'casual' contact. This variation in practice may relate to the higher percentage of child-bearing relationships with non-Travellers found among this group. While seasonal Travellers may not be as constrained by eviction patterns as full-time Travellers, their summer movement places them (for at least part of the year) under the same contact constraints as full-time Travellers. Given that all members of the sample adhere to a common family ideology, it is perhaps unsurprising that some seasonal Travellers elect to continue with shared or block parenting during periods of settlement.

Narratives indicate that where shared parenting or 'block' contact is practiced, the pattern of visits has generally been established by the time the child is two or three years old. By the age of seven or eight, it is usual for the child to control contact to a certain extent, indicating how they wish it to occur, and to decide when it is time to return to the other parent (see Jill, Chapter 6). Thus a high value is placed on children's wishes and feelings, with a move towards autonomy generally taking place at an earlier age than is recognised by the courts (see *young people's autonomy over residence*, below).

With regard to education within block parenting regimes, a large number of Traveller children are home educated (see Earle, et. al. 1994; Dearling, undated), enabling the parent holding residence to transfer books and other paraphernalia with

the child, thus limiting any disruption to education. Inevitably though, the amount of available home support and stability of sites will have an impact on attainment (Ofsted, 1996, 1999; Webster, 1995; Save the Children Fund, 2001). Where a Traveller child does attend school, by definition, they are used to transferring between establishments depending on their current locality. As such, neither parents or children appeared to find the concept of moving schools when living with the other parent, to be an issue of concern.

Given that shared parenting and block contact arrangements are so widely accepted within the community, particular techniques for maximising contact opportunities, and minimising potential conflict between ex-partners are widely practiced. As has been discussed previously, living in such close proximity, Travellers tend to know each other on a reasonably intimate level, and children have fairly close relationships with a number of adults on site. The tendency for Travellers to live among the same group of people for significant periods of time means that most parents have a network of adults who can be safely entrusted with their children. Thus when where a known individual or family is Travelling to the location where the other parent resides, they will often take responsibility for delivering a child to the parent, or 'relaying' a child on to other known Travellers who are continuing in the right direction.

"P is a good example – he does a lot of driving to and from places and you know he has friends in Wales and he delivers the kids from their mum in [Midlands] to them. There's a lot of that goes on within us lot – the toing and froing and delivering kids and if I go and see K, it happens there's people down the road from us whose kids' dad is on the same site and it's like *'oh great, can you take him there as well'...*it all sort of happens like that – *'right you're going there and such a body's up there and we're going there so we'll take your kids to there'* and then he can pick them up"
ZELLA

Such techniques for facilitating contact both minimise the expense (and time-factors involved), in travelling across country, and can also avoid conflictual situations where parents are uncomfortable in each other's presence. Where

evictions or vehicle problems mean that a Traveller may be delayed in reaching a rendezvous to collect a child (a scenario mentioned by six informants), the practice of arranging handovers on known sites, means that if necessary a child can be left with other Travellers until the parent arrives (see Nesta, Chapter 6). The majority of Travellers now also possess, or at least have access to, a mobile phone, with three informants commenting on how much easier contact arrangements have become since the development of new technology.

Contact and residence decisions: risk factors and responsibility

Co-existing with the expectation of on-going child-parent relationships lies a non-judgmentalism over the context of responsible parenting. Although it is widely accepted that shared parenting remains the ideal arrangement, as long as a parent participates in their child's life they are seen to be fulfilling the moral contract. However, a recognition exists among the community that not all parents are able to care for a child adequately, whether through psychological conditions, or drugs or alcohol abuse. Rather than excluding such an adult from a child's life, (which may be morally problematic in the context of the expectation that a child should have contact with both parents), the community will often attempt to support contact through the provision of informal supervision. In essence, in such cases, the other parent or site companions fulfil the role played by social workers in court ordered supervised contact.

No particular stigma appears to attach to the parent who is seen as requiring supervision, as long as they are willing to accept that they are not able to safely care for a child on their own. Thus, in exchange for acknowledging that a reason exists for controlling contact, a person will receive support to ensure their relationship with a child, and not feel penalised as a result of their particular problem (see Box 7.1 below). As such, the Traveller ethic of on-going contact is firmly in line with the ethos of the Children Act, where parental relationships are to be encouraged where possible.

However, the expectation that contact will continue virtually regardless of a person's drug or alcohol abuse is not unproblematic (*see Domestic Violence section, below*). Given that the parenting contract works both ways, a parent who wishes to

limit contact may find themselves under pressure to ensure that their ex-partner has access to the family unit, as limiting contact may place a resident parent at risk of losing social capital unless they can adequately demonstrate that they have taken numerous steps to ensure an on-going relationship between a child and parent. As one informant stated, the reluctance to engage in formalised contact and residence scenarios may lead to situations where *"it can get quite bad"* before the community accepts that contact may not be sustainable (and see section on domestic violence, below).

In our sample of 'non-court' informants, only two Travellers (both lone mothers) have decided to exclude a parent completely from a child's life. In these cases (Zella (child a) and Katie (children a & b)), the fathers were recognised throughout the community as indulging in heavy drugs use and having committed domestic violence against the mother. In particular, the father was perceived of as potentially endangering the child to the extent that the mothers were not socially censured for refusing to allow contact. However, Katie (Appendix 6) still felt compelled to move abroad for some period of time to stop father (a) insisting on developing a relationship with their daughter, indicating the strength of feeling about this subject within the community. Thus once again an individual's social capital and status as a moral being is closely interconnected to the level of support available in bringing about an on-going relationship with a child. Box 7.1 below, illustrates the ways in which two superficially similar contact situations are dealt with by the same informant, revealing the importance of the social context of the parenting relationship.

Box 7.1 Case study of contact risk assessment (and community support) where parent has drug addiction

ZELLA: Informant had Travelled since in her late teens. Conceived child in fairly casual relationship with partner she met whilst in drug rehabilitation clinic. Couple given flat on leaving clinic but partner *"went straight back on the drugs and I didn't"*. Zella left partner when baby was a few months old and *"went straight back on the road...it was all that I knew at that point"*.

Partner had no experience of Travelling *"he was from a different world"* but followed Zella to various sites over the first year after they had separated *"it was like you live here, and I live there and you can be with her and we'll try and make it lovely and amicable...but it wasn't, because he drank a lot and he was taking loads of drugs and losing the plot on a regular basis"*. While intoxicated on drink or drugs

the father attempted to abduct the child on several occasions, once, managing to remove her from site before anyone had realised what was happening.

"people went after him and he was very aggressive and really on top, and it was completely horrific and then he sort of held her hostage in somebody's trailer...but he was so out of his head, that thanks to heroin I was able to walk in there and say 'oh I'm just getting her something to eat' and legged it and that was really the last contact I had with him"

The father did try to telephone occasionally and a year or so later, Zella made to effort to take their daughter to see him in a house where he was living, but *"it was just full on heroin hell... I just can't be in that environment sorry. He wasn't having her because there were needles everywhere and junkies in the corner"* Since then Zella has encountered the father on a couple of occasions at festivals but avoids him where possible. No further contact has occurred between father and daughter.

Second child was born of a relationship with a lone father Traveller. Couple had known each for several years prior to commencing the relationship, and although keeping their individual vehicles, were together for several months prior to conception. The relationship lasted for approximately four years in total, although the couple tended to live on separate sites after Zella *"chucked him out when I got pregnant"*. Although Zella refers to her second child's father as *"a nutter, but sound"* she felt unable to live with him after he went back to using heroin during her pregnancy.

The father shares parenting of their son (and Zella's older child), spending most weekends and sometimes days during the week, on the site where Zella lives. She insists that he does not take the children to another site *"we have an agreement that until he proves he's completely clean and not doing anything horribly dodgy the kids stay here"*. In addition Zella has her ex-partner's son to stay with her on a very regular basis as *"[father] needs a break once in a while so Sol comes here"*. Thus despite the ending of their relationship the former couple share parenting of all three children. Both parents have been involved in other relationships at times, but childcare arrangements do not alter.

In the above case, despite the fact that both fathers were using heroin, Zella came to opposite decisions over allowing contact to occur. Father (a) was not a Traveller, and did not understand the ideology or ethical codes of the community, as illustrated by the comment that *"he was from a different world"*. Zella clearly saw her relationship with him as based on their shared drug use and mutual experience of rehabilitation. Once Zella left rehabilitation and returned to Travelling, the father was accepted on site *as long as* he attempted to behave in a socially acceptable manner and shared parenting of his child. Initially, members of the community were willing to 'police' the contact situation, *"but he was too aggressive, he wasn't fit to*

have her and it was unfair to ask other people to be involved'. When it had become clear that the father was endangering the child, Travellers stepped in to halt a spiralling decline and the father was encouraged to leave the site, subsequently moving back into housing. Zella was willing to allow the father contact if he could prove that he had a commitment to their child, but ultimately the baby's safety came first, and the community fully supported her decision to exclude the father from their lives.

In contrast, the father of the second child was well known in the Travelling community, and despite his drugs use, was regarded as a decent, moral person who fulfilled the ideological contract. The fact that the father (b) had taken full responsibility for his older child was also taken as proof of his moral worth. The mother in that case was *"a raging heroin addict.... [father] has brought his son up from birth, on his own"* and thus he was duly respected for fulfilling his responsibilities. Although Zella would not permit father (b) to take her children away from her site while he was using drugs, she acknowledged his responsibility to the children (and social parenthood of her oldest daughter) by encouraging an ongoing parental relationship, in a situation where she could supervise the arrangement. The father also recognised the mother's right to set terms on his relationship with the children, and is happy to participate in shared parenting in such a manner. *"he accepts my going 'you know it's not right [taking heroin]' so he's willing to listen and that's sound"*.

If either father had proceeded to court, it is probable that contact would not have been granted, or the father would have been advised to drop his case at an early stage. While Zella has decided that father (a) is unable to parent in a safe manner, a humane and acceptable solution has been devised for father (b), based on the community's willingness to support a parenting relationship *as long as the father does not breach codes of acceptable behaviour*. Three children are therefore able to retain an on-going extended family relationship, and by registering concerns over the father's drug use, but not condemning him as a person, the community is reiterating ethical codes while setting defined boundaries to protect children and young people. Thus in a society which to a large extent operates outside of the 'formal' legal arena, the role of community-defined social rules cannot be

overestimated.

Domestic Violence

As discussed in the introduction to this chapter, (and is abundantly clear from the narratives presented in the empirical section of the thesis) domestic violence proved to be a fairly prominent analytical theme. Overall, seven informants (including one male) reported incidents of domestic violence during a parenting relationship. This figure of 30% is slightly higher than national estimates for domestic violence, where a figure of around 25% of women are believed to be victims of such assaults (British Medical Assn., 1998; Mirrlees-Black & Byron, 1999). Given the prevalence of domestic violence narratives among the sample, we now consider the ways in which the Traveller community balances the need to protect its members from personal violence while attempting to ensure on-going child/parental relationships.

As considered in earlier empirical chapters, Travellers who are isolated from their community must, of necessity resort to legal methods for dealing with domestic assaults where no other method exists for ending the violence (see Su, Chapter 5). Where incidents take place upon site however, (four cases), a consideration of transcripts indicates that members of the community will intervene fairly rapidly (see Teresa, Chapter 5). Although the close proximity in which people live may engender upsurges of anger and create situations where domestic arguments may escalate (see Martin, 2002), no informant appeared to consider violence as an acceptable method of dispute resolution. In all but two cases where informants reported violence, this appeared to be linked to the use of Class A drugs or heavy alcohol use (and see Cahn, 1999; Crawley, 1996; for comparative references to alcohol related domestic violence among Romanichal and Irish Travellers).

Although in the remaining domestic violence cases details of the trigger for the abuse were not forthcoming, informants referred to the distressed psychological state of their partner prior to the assault which ultimately led to separation.

Five female informants reported domestic violence first occurring when they were pregnant. Thus the percentage of Travellers affected in this way, closely reflects the 40% of domestic violence victims in the mainstream population who report such

assaults taking place during pregnancy (DoH, 2000; Mezey & Bewley, 2000). Four of these women were assaulted by a Traveller partner, and in all but one case left the relationship shortly after the first violent incident. All of these women received community support when leaving their partner (see Katie, Zella and Theresa's narratives - in addition, Julie's third parenting relationship broke down after a violent assault – not detailed in this thesis)

In comparison, Su (Chapter 5 and Appendix 6) experienced violence while housed. Although Traveller friends provided her with accommodation, in this instance the informant was unable to call on the nomadic community to intervene in the relationship. Indications therefore exist that the violence continued over a longer timescale than for other informants. Teresa who referred to violence to property rather than her person, during pregnancy, opted to remain with her partner for some months, suffering several assaults during that time period. However, she stated that on several occasions prior to the relationship ending, friends on site offered to "*get her vehicle back*" for her, and evict her partner should she wish to remove him from her life.

While statistics for violence appear not to vary a great deal between our sample and 'mainstream' data, responses to personal violence within the two groups are strikingly different. Whole population surveys provide evidence that women will on average experience something in the region of thirty five assaults prior to seeking external assistance (Yearnshire, 1997). In part, this may relate to the secluded nature of settled households, and a reluctance of neighbours to intervene in private relationships, although some research indicates that women who remain in violent relationships may exhibit a strong belief in the superiority of two adult, heterosexual families over lone-parent households (Holden et. al., 1998), making it more difficult for them to leave their abuser. In addition, long-term exposure to violence has been well demonstrated to have negative impacts on women and children's well-being, (Holden Gettner & Jounles, 1998; John, 1997; Mullender & Morley, 1994) and create a situation where through loss of self-esteem it is harder for a woman to leave a relationship (Dobash & Dobash, 1992; Jaffe, Wolfe & Wilson, 1990). In addition, problematic access to public housing, and the poor quality and shortage of refuge accommodation, may encourage a woman to remain

in a violent relationship for longer, in the hope that the situation will improve and that she can remain with her partner.

Tragically, given many domestic violence victims' desire to raise their children in a two parent household, an increasing body of research demonstrates the long-term psychological impacts on children exposed to domestic violence (John, 1997; Radford et. al., 1995; NCH, 1994) who may either learn helplessness or aggression towards their future partners depending upon gender (Hester, Malos & Hague, 1999), as well as a tendency to suffer from depression, risk of substance abuse or inability to make close personal relationships as they become older (NCH, 1994; Commission on Children and Violence, 1995; Dobash, Dobash, Cavanagh & Lewis, 2000). Thus, it would appear incontrovertible that remaining in a violent relationship "for the sake of the children" actually causes more long-term damage than divorce or separation (see Dobash & Dobash, 1992; NCH, 1994, etc.)

In contrast to evidence relating to many 'settled' women's difficulty in leaving an abusive relationship Traveller women generally display highly assertive and independent behaviour. These character traits, coupled with the social unacceptability of domestic violence within NT culture (see above) may well assist them in leaving an abusive relationship at an earlier stage than is commonly found in 'mainstream' society. For Traveller women, practical considerations of leaving a relationships are often mitigated by the fact that a large number of female informants possessed their own accommodation prior to the parenting relationship, had access to strong support networks, and an awareness of the viability of survival as a lone parent 'on the road' through observations of role models. Additionally, no expectations exist that a woman should stay with a violent man for the sake of her children or for social or moral reasons (see too the earlier discussion re: community characteristics in cultures with low levels of domestic violence – Counts et. al. 1992; Mitchell, 1992; Nash, 1992; Lambek, 1992). It is therefore unsurprising that when a relationship becomes untenable, regardless of whether a woman is pregnant or caring for a small child, she will generally consider leaving the partner, rather than tolerating violence (see Katie's narrative, Appendix 6).

Where women and/or children have been exposed to violence, the Travelling

community will usually provide unequivocal support if a mother wishes to stop contact between a violent partner and children (see Katie, Appendix 6; Zella, Box 7.1). This appears to be the one situation where ending of contact is unproblematic, and it is not necessary for an individual to justify their decision. However, informants remained adamant that if a child requested contact with a father, the mother should attempt to arrange for this to take place in a safe environment.

In situations where child contact takes place and there is a perceived risk of ongoing violence (a major risk factor in violent relationships – see Hester & Radford, 1996; Radford et. al., 1997; Hester & Pearson, 1997), community ‘policing’ of violent relationships will generally occur. In such circumstances contact (or handover) will take place at locations where there are witnesses present, and care will be taken to ‘watch out’ for the family at risk. Given the very public nature of Traveller life, should an assault be made, it will generally be heard and seen by people on site. Where domestic violence was mentioned during interviews, Travellers reported that site personnel will usually intervene very rapidly when assaults are witnessed, with community administered justice following soon after.

In the three cases in the sample where a woman left her vehicle as a result of domestic violence, the father was either forcibly removed from the home and the woman reinstated, or an offer to take such action was made by other Travellers. In one case, where a woman was unable to drive a large vehicle, site residents drove her home to another location and arranged for a driver for the next stage of her journey. As a final and ultimate punishment, a man with a reputation for domestic violence will find his reputation will be damaged, with resultant loss of social capital (and see Mitchell, 1992).

Only one informant in the entire sample, (Teresa, Chapter 5) referred to on-going issues of domestic violence once the parental relationship had ended, and this is in sharp contrast to studies of ‘mainstream’ society, where it is estimated that as many as 87% of women are exposed to ongoing violence during contact sessions, where such behaviour has been a feature of the parental relationship (Hester & Radford, 1996). Indeed, Home Office findings on domestic violence (Mirrlees-Black & Byron, 1999) indicate that more women are murdered or seriously assaulted by their

partner in the immediate aftermath of separation than at any other time (see Humphreys & Thiara, 2002; Lee, 2000). It is therefore highly likely that community intervention in cases of domestic assault may have a significant impact on limiting on-going violence during child contact. Moreover, given that research evidence indicates poor emotional outcomes for children exposed to domestic violence are most effectively mitigated by providing support for their primary carer (Mullender and Morley, 1994) and that good relationships with (especially male) adults outside of the household “buffer the worst effects of abuse” (Cicchetti & Rizley, 1987), the Traveller community appears to instinctively provide an environment which protects its members.

Lone Fatherhood

Gender-equality among NTs is a pervasive theme of this thesis and given the prevalence of shared parenting among this community, it appears appropriate to consider attitudes towards fatherhood among this population. In particular, in this part of the chapter we examine narratives of lone fatherhood and gender-neutral expectations of responsible parenting where a mother is unable or unwilling to care for a child (see further Zella’s narrative, Box 7.1, for an example of maternal drug-addiction leading to paternal residence). Although it is taken as a given that both parents should actively participate in their children’s lives, no informant indicated a belief that children should necessarily receive their primary care from a mother. In fact, one surprising finding from this study, was the high percentage of narratives where children were predominantly cared for by their fathers. Overall, out of the sample of twenty three informants, five Travellers have been (or are) lone parent males, or have partnered with a lone parent father. While the figures are fairly small, this still accounts for nearly a quarter of the sample having engaged closely with this situation. These figures, while not generalisable, are greatly in excess of the 10% of lone fathers found in the mainstream population (General Household Survey, ONS, 1999). Moreover, during fieldwork a number of Travellers referred to lone father friends and acquaintances ‘on the road’, suggesting that such arrangements are not considered unusual in the Traveller context.

Data from the ONS (Labour Force Survey, 2000) indicates that within the overall population, 70% of male lone parents are or have been married, 16% are widowed

and that 14% are single. In contrast, of the five fathers identified in our sample, none have become lone parents as a result of widowhood and three were single. In addition, (although figures are not comparable, given that the 'mainstream' study looked at 35 families) Barker's 1994 research into lone fathers found under a third of informants became lone parents when their youngest child was pre-school age. Of Barker's fathers who acquired sole residence when their children were very young, 40% had done so as a result of being widowed, and in a further 40% of cases, the mother had left home without taking the children. Contrastingly, 80% of Traveller lone fathers became a sole carer when their children were under five, and none had been widowed, indicating perhaps that the common practice of shared parenting, knowledge of community support available to lone parents and lack of gendered expectations, may make the transition to lone fatherhood easier for our sample.

Within the nomadic context, males generally become lone parents in one of three ways: through older children opting to move from contact/shared parenting to paternal residence (see Don, Chapter 6); where the mother is incapable of caring for a child through drugs use or mental health issues etc, (see Michael, below, and Zella Box 7.1) and finally where the other parent is not child oriented and opts out of residence arrangements (see Andy, Appendix 6, and Polly - shared parenting above).

Thus, pragmatic lone fatherhood is relatively common amongst Travellers, as where a mother is unable to care for a child adequately, rather than place a child with settled relatives or into local authority care, lone parenthood is generally seen as the best method of risk limitation, even where a child is of a very young age. Two out of the five Traveller lone fathers acquired residence in this way. Among Barker's (1994) sample however, lone fatherhood as a damage limitation exercise is less common, accounting for 30% of cases where children are under five, and in all but one of these cases social services intervention had occurred prior to the father taking on the role of primary carer. In contrast, no legal proceedings took place prior to a Traveller father acquiring care of young children.

Although female residential parenting still remains the most common form of

parenting arrangement overall (found in thirteen out of twenty three cases) it is clear that no stigma appears to attach to a mother who is unwilling or unable to look after a child, *as long as she takes steps to remain in contact with a child*. (see Andy's narrative, Appendix 6). When examining whole sample narratives, only two women with Traveller community connections are absent parents. In one of these cases (Michael) the mother remains in frequent 'traditional' contact and is therefore considered to be fulfilling the moral contract as a parent. In contrast, the other mother has infrequent contact (Sol's mother, see Box 7.1) and although still Travelling, is subject to strongly negative comment as an individual who has left two children with former partners. In this particular case the mother's heroin addiction is cited as a reason for her inability to care for her children, but in failing to fulfil her responsibilities *despite* her drug use, she has placed herself beyond the moral pale. Similarly, (although she is not a member of the Travelling community), it is the fact that Andy's former partner has reneged on contact arrangements, (rather than the fact that the father has accepted residence of the baby), which has led to the mother being referred to in negative terms by his site companions.

In contrast, Michael (lone parent father of children aged 12 and 14) has an amicable relationship with his former partner, although his sole parenthood began as a risk limitation exercise while the mother was in and out of psychiatric institutions, from the time the oldest baby was born. The informant reports that his partner had a history of psychiatric instability "*and drug addictions*" when they met in their late teens, but on confirmation of pregnancy three months into the beginning of the relationship, he "*took responsibility, it was my baby*". The family attended festivals "*sometimes just me and the kids, sometimes me and my partner*" for several years, commencing when the younger child was a toddler. From this period of time onwards, Michael increasingly found himself as a lone parent, as his partner would "*go AWOL on me and end up living with somebody else until such point as it all became too much and she went further downhill and I'd end up having to take her back*". After several years of "*being a lone parent on and off for maybe a year and a half and then she'd come back and then go again*" Michael ended the relationship. Shortly afterwards, he and his children became full-time Travellers as he found that he "*didn't want to go back in [to houses]*" and the support network available to a lone parent meant that he was able to work as a mechanic in the

winter, and as general festival site crew in the summer.

Regardless of the family's living circumstances, (and any intervening relationships of either parent) the children always remained in contact with the mother, spending approximately one weekend a month with her. While Michael was housed, his former wife would generally come to stay at the family house *"as I wouldn't let them go without knowing what the situation was [in terms of her mental health or current partner]"*. After becoming fully nomadic, (and now the children are older) Michael tends to take the children to visit their mother and then stays with friends in the locality, or puts them on a bus or train, to be met at the other end of the journey. However, he is clear that the mother is in a contact relationship rather than one of shared parenting *"because of her mental state and all the rest of it... she wasn't going to bloody well have them, I wasn't going to have them pulled from pillar to post.. I've been the stabilising force so they should stay with me"*

Michael is willing for the children to have staying contact with their mother, as she is now in a stable long-term relationship and no longer addicted to drugs. Telephone contact takes place on a regular basis, and sometimes the mother (and on occasion her partner) will stay on site for a weekend with the family. Michael reiterates that it is critically important for the children to remain in contact with their mother, and as long as she makes some effort to see them or speak to them on a regular basis the relationship remains amicable. Although the mother's life has now stabilised, Michael is certain that she will not seek residence of the children, as the arrangement suits all parties concerned. In addition, through the parents' marriage Michael has automatic parental responsibility for his children, a discovery he made through a Citizen's Advice Bureau when seeking advice on benefit entitlement. He is therefore confident in his legal status, although adding, that should a dispute occur, *"she wouldn't have a leg to stand on"* because of her previous psychiatric and addiction history. Based on the mother's *inability* to care for the children, but her willingness to have some input into their lives, this relationship is not subject to criticism by the Travelling community.

Community intervention over contact disputes

So far, we have discussed situations where a parent is clearly unable to care for a child adequately without support from other members of the Traveller community. However, community intervention may also occur where milder levels of conflict or breach of responsibility are found. Where both parties are Travellers, such intervention may be as simple as a person who knows both parents taking one or other aside for a conversation about the impact of their behaviour on their children, or the community in general. Given the assumption that some form of on-going social relationship will persist between the adults during contact sessions or through meeting at sites or festivals, it is not seen as problematic or interfering for friends and neighbours to intervene in the couple's relationship. New partners who adhere to 'Traveller ideologies' may also tend to support the ethic of maintaining solid community relationships rather than automatically siding with their partner in a dispute. Current partners' assistance in maintaining child contact and attempting to defuse parental disputes were mentioned with gratitude in five 'own arrangement' cases.

“[father's girlfriend] has got two older boys, K she's called and she's really sound, she's helped out a lot actually, 'cos when I was up there, he'd got a few things thrown at him from other people while I was there and I sat back and seen it happening and him losing it and thought 'he can't lose it with me, 'cos I haven't said now't wrong and he's hearing it from other people'. Little J flew at him first, and then when she'd him losing it and thought 'he can't lose it with me, 'cos I haven't said now't wrong and he's hearing it from other people'. Little J flew at him first, and then when she'd finished his girlfriend K, sort of mellower tone, but she had a bit of a go at him said 'you know they're right, listen to them' and then I actually had a chance to talk to him and then he talked, and now we're on a better level” **JULIE**

Su

family practices, and demonstrates that the new partner also adheres to a common code. Thus community validation of 'good' behaviours, and public 'shaming' where an individual is perceived of as failing in their duties as a parent, or in some way behaving badly to their former partner, appear to be fairly common practices within this community (see Box 7.2 below).

Box 7.2 Case Study of community pressure to re-establish block contact

KATYA: Informant's relationship with father (a) had broken down soon after conception. She was therefore pregnant and Travelling alone when she met the father of her second child, who was also a Traveller. Katya became pregnant fairly soon after giving birth to her first baby, and the relationship with father (b) deteriorated, with the couple separating when she was four months pregnant. Father (b) began a long-term, ongoing relationship fairly soon after separating from Katya, partnering with another woman who already had children. By the time child (b) was a year old, contact between Katya's former partner and their son was intermittent and took place when all parties were resident on the same site, or over block contact sessions. Father (b) and his new partner moved abroad after the birth of their first child, returning to the UK after having another baby.

By the time father (b) had returned to England, Katya was a lone parent with three children, although she shares parenting of her youngest child. She feels that father (b) has not made enough effort to keep in contact with his son, and instead appears to discriminate in favour of his current partner's children. Although Katya is in contact with father (b)'s parents and can always get messages to him, contact has been intermittent. She has not insisted he has a greater input into child (b)'s life until last year when the boy stated that he wanted to see more of his father and little sisters. Since that time she has been determined to improve the father/child relationship.

"[father] was going to take him before Christmas and then right at the last minute he couldn't 'cos his kids got ill and I was really upset for [child] being let down... then [mutual friends] were saying [father's partner] was saying 'it would be really nice to see you again and she's happy to have the two oldest kids some time and as they're living on the same site we can take the kids back with us' so I rang [father] up and he sent a text back on the phone 'sorry Katya I can't' so I was really angry.....then later a friend of mine said it all for me, cos she said to him 'how can you differentiate between two kids that are yours and one that isn't and give it all to two and nothing to the other' and that pricked his conscience and he rang up and said 'I'll will have [children] and I'll come and get them tomorrow and I'm on my way now'"

Contact has continued on a more regular basis since that time, although this situation had only arisen some weeks prior to interview, and it is not possible to say how the relationship will continue.

This case study demonstrates a number of points discussed earlier. Firstly, the

ability of members of the community to draw a parent's attention to their breach of normative codes, secondly, the ways in which children are moved across country for contact visits and finally, the willingness of the father's new partner to care for both her partner's child of a former relationship and Katya's oldest child, for whom father (b) had accepted social responsibility (and see Jill, Zella and Polly's narratives for other examples of extended family of choice).

The overwhelming majority of the sample commented positively on the ability of community members to assist in negotiations where parents have reached a deadlock over children or where their own relationship is preventing adequate parenting.

"having a really supportive community around me has meant that me and [father b] could really sort it out well, and that definitely works better because of both of our lifestyles" SU

However, four informants cautiously referred to the fact that community intervention could inflame a dispute between parents, lead to an individual conforming to social pressure (see Wardak, 2000) or behaving defensively about their actions when they personally felt justified in their decision. In such situations, Travellers tended to report that they would avoid discussing the situation with mutual acquaintances who felt willing to comment on the dispute. However, where an individual is a member of an essentially closed community the inability to avoid such conflictual situations for long, places pressure on the parties to deal with the situation (see Fonesca, 1995; Sutherland, 1987; Olsen et. al., 1995). Where Travellers are more isolated from the community however, a greater degree of personal choice exists in ways of dealing with conflict, leading perhaps to a broader range of outcomes over parental disputes.

"basically I see anything like that as my business and I won't have it you know [external intervention].....if I've got anything to say to [mother] then I'll say it to her, not through other people" MAX

Children & Young People's Autonomy over Residence

Having considered parental disputes and the role of the community in encouraging resolution, we now look at the ways in which young adults can move away from their natal family if they consider that they require greater independence, or wish to separate from a family dispute.

Where both parents are actively involved in a child's upbringing, then a child can move to the other adult if they wish to spend time away from their current carer or siblings. The fact that Travellers are by definition home owners means that two sets of accommodation are available to a young person in these circumstances, albeit that the environment may prove crowded with the integration of another child or young person into the unit on a permanent basis. Purchase of a separate trailer, or having a young person live in a bender next to the family home, can provide autonomy and privacy for adults and children alike (and see Earle, et. al, 1994; Okely, 1983; Save the Children Fund, 1992).

If moving to another parent is impracticable or unsuitable, one strength of the Travelling community lies in the ability to integrate unrelated young people into new forms of living arrangements. This is particularly easy where common values are held, as young people who have been part of the community since birth already possess a set of 'Traveller-appropriate' responses and capitals. It is not unusual to find that a young person in their mid-teens (14 years and upwards) has left the parental group to live with another set of Travellers. Older children were reported to have begun independent Travelling in three cases within the overall sample, in each case making the decision to move on with unrelated adults when younger than sixteen.

"he was self-sufficient, he could take care of himself" DON

For the parents involved, this unofficial fostering of young adults enables the child to experience independence, (and often earn money through farm work etc.) and yet provides peace of mind, as parents are kept adequately informed of their child's

well-being by contacts on site. Such arrangements can be particularly useful if a young person wishes to go to college to undertake GCSEs or A Levels, but their family does not wish to settle in a particular location. In these circumstances it is often possible to hear of another Traveller family who are living on a site, (or may even be temporarily resident in a house) near to a college who will 'watch out for' a young adult.

Community assistance and support is therefore usually available to young people who in mainstream society may be 'at risk' if they attempted to live independently (Crane, et.al. 1996; Chamberlain, 2001)

"'e's still on the road and doing his exams and everything... he lives with friends on site that are watching out for him, he has he own bank account and I can still support 'im, but 'e has to get his trailer towed 'cos obviously he can't drive anything yet"

JULIE

In addition, two informants reported that their children had been allowed to decide if they wished to live with settled relatives to allow them an opportunity to experience life in a house.

"when I was going through my divorce, nearly three years ago, he moved in with my parents 'cos I didn't have a home at the time - and then he didn't want to come home"

POLLY

The practice of allowing children to move between parents and other relatives, sometimes for lengthy visits, accustoms them to being away from their primary carer from a young age and fosters independence, so that a child is often quite emotionally mature by their early teens. 'Exchange' of teenage children (who require an adult to tow their trailer for them if they are not old enough to drive) and fluidity in parenting arrangements are therefore a fairly common practice amongst Travellers. While such respect for young people's autonomy may help to defuse familial conflicts, a potential also exists for a lessening of ties to the natal family. Overall however, there appears little evidence to support this latter supposition as

six informants referred to the complex family relationships existing between children, partners, ex-partners, half and step-siblings, indicating that such family practices may merely represent a new way of 'doing family' (Morgan, 1996).

Making it work

Finally, a number of Travellers in the 'own arrangement' sample reported that their parenting arrangements worked well, despite having gone through periods of conflict with their former partner. In these circumstances, while acknowledging that parental relationships had been strained at times (both immediately post separation and on occasion since), the couple had worked together to parent their children within the context of living as Travellers.

Polly (who Travels seasonally with her current partner) has four natural children and residence of her partner's daughter, who has been fully integrated into the family. Polly commenced Travelling while married to the father of her two youngest children, and the father still Travels on a seasonal basis. Her oldest son (who has never had contact with his father) lives with his maternal grandparents but travels with the family intermittently over the summer. Her second child, who is in casual contact with her father, lives with Polly and her partner. The two children of Polly's marriage, who were born before the family went 'on the road', are in a shared parenting arrangement, with the boy living predominantly with Polly, and the daughter living with her father most of the time. When the family is housed over the winter, contact between the divided siblings is regular, taking place at least twice a week and over most weekends. During the summer the younger children tend to Travel with one or other parent, often for block periods of time. In addition, Polly's partner has a son from a second previous relationship, and although his mother refuses to allow him to Travel, he is a fairly regular visitor to the household over the winter months. Although relationships between Polly and her ex-husband are strained, the shared parenting relationship generally works well, although disputes have arisen over his willingness to allow Polly's youngest daughter to Travel with her siblings for blocks of time. On occasion, at festivals, all members of the family are resident on the same site.

“yeah it can be difficult, you tend to camp either side of the field and try not to see each other much cos you can feel the tension there and it’s not fair on the children or other people....but I know he talks to people a lot and obviously I talk to people and they offer advice and you can tell sometimes when he’s been talking to somebody whose quite sound and sorted because then everything will be OK and be quite amicable” POLLY

Su also reported that despite a painful separation from the father of her youngest child, followed by a period of time when they could barely be civil to each other, the parents and their new partners are now able to reside on the same sites. On occasion the families will park up next door to each other, thus enabling the children to retain a relationship with both parents, without feeling any division of loyalties.

Ash who is in a highly successful shared parenting arrangement, believes that the parents’ commitment to the child has enabled them to overcome their differences in parenting style, despite occasional irritation with each other. Although the informant is now Travelling seasonally, at one point he lived on the same site as his former partner and child for an eighteen month period, sharing childcare on a daily basis. Since that time the couple have devised a block parenting regime, with Ash’s son spending some periods of time housed over the winter and then Travelling with one or other parent over the summer.

“it all works well, because we are both in the same space, and [son] has both me and his mum in the same space...since the summer season’s started he’s been back and forwards with me going to festival sites and meeting his mum at the sites and on occasion when he wants to, he sleeps with his mum, but generally he’s been with me. And that’s where we are at present” ASH

Conclusions

This chapter has demonstrated how ‘court’ and ‘non-court’ Travellers vary little in their attitudes to engaging with the legal system, with all informants expressing a

belief that parents can sensibly come to their own post-separation arrangements over children. Running in parallel with this belief, (for many Travellers) is a mistrust of the legal authorities' ability to adequately determine 'good enough' parenting within a nomadic context, creating a partially mythologised, partially accurate, sense of fear over engaging with the law.

Strongly entwined in Traveller identities, is an adherence to a child centred philosophy, which is at core in line with the ethos of the Children Act (see Chapter 2). However, notions of 'correct' behaviour within the context of the Traveller community may drive many family practices, as behaving in a non-normative manner over family responsibilities can damage a person's reputation. As such, 'the community' as an amorphous entity, has a significant input into methods of parenting and formulating acceptable standards of behaviour (Wardak, 2000). However, the impact of Traveller norms on family behaviours may not be unproblematic, with strong expectations existing over on-going contact, in circumstances where parties might prefer to end such a relationship at an earlier stage.

As is clear, Travellers generally adhere as closely as courts to the belief that parents have a duty to a child for life. However, while legal authorities cannot enforce on-going contact when a non-resident parent does not wish this to occur, in some senses the Traveller community ensures such relationships endure through the threat of loss of social capital. Ultimately, in many cases, former partners *must* continue in some form of parenting relationship as the only alternative to on-going child contact involves Travellers detaching themselves from their community, or facing social disapprobrium. Essentially therefore, social pressures derive from the parenting monoculture of this group, as despite the widespread geographical location of the community, an intertwined, village type relationship endures between Travellers, with news travelling fast, and social expectations of individuals remaining strong.

Where adults can overcome their relationship difficulties to ensure an on-going parenting relationship, the benefits for children are undoubtedly good (see too Smart & Neale, 1999), with community support ensuring that contact will take

place in a safe environment both for children and vulnerable adults. Over time, many problematic parenting relationships can reach a point of amicability, or even warmth, a situation which may be harder to attain in the mainstream world, where social contact between adults can be easier to avoid, or where one or other party often moves away from a particular social network on separation.

As illustrated by this discourse on community supported parenting, when making court orders legal authorities frequently fail to recognise the close-knit nature of the Travelling community. Thus, because of the closeness of the community (which brings its own benefits and burdens), seeking legal assistance when the opponent is also a Traveller may be seen as an ultimate breach of social responsibility, often forcing informants to come to extra-legal 'Traveller-appropriate' arrangements, sometimes regardless of their own preferences. However, taking legal action may not only damage a person's social capital, but can significantly worsen a child's situation through placing rigid structures on fluid parenting arrangements which often benefit all parties. Although court interaction is rare when both parties Travel, as has been shown (Chapters 5 and 6) in these cases parents tend to revert to pre-court arrangements once proceedings are over, in an action which both re-establishes the parties adherence to norms of behaviour (Olsen et. al., 1995; Stewart, 1996; LaPrairie, 1995) and recognizes the practical benefits of an informal parenting arrangement which suits nomadic life.

Despite the undoubted difficulties of negotiating a post-separation parenting relationship with a person who remains part of the same social network (Smart & Neale, 1999), it would therefore appear that where enough parental will exists, the addition of a framework of community support can decrease adult hostilities, enabling adults to work together in the 'best interests' of their child.

SECTION THREE

CONCLUSIONS AND RECOMMENDATIONS

This final section of the thesis, is presented in three distinct parts. In the first section of the chapter we reflect back on the aims of the study, potential impacts of the selected methodologies on the findings, and the conclusions drawn from a consideration of Travellers' narratives of legal interactions. We then finalise the discussion of formal legal engagements by presenting a series of professional practice proposals, grounded in both the substantive findings and Travellers' own stated wishes, which in turn are reflective of their subjective experiences and expectations of court proceedings.

In the second section, we move away from informants' experiences of the legal arena, and consider the findings relating to Travellers' internal dispute resolution systems, enabling contemplation of the role of the community in providing an ethical framework within which parenting behaviours can be controlled and supported.

Finally, we reflect on the theoretical and policy implications of the overall findings of the study, consider the ways in which this research informs our knowledge of Travellers, and highlight themes which may form the basis for future research into the often complex relationships found among members of this minority community.

Aims and overall findings

Key finding one: New Travellers actively avoid engaging with legal proceedings over their children, preferring to come to their own post-separation parenting arrangements. Explanations offered for this preference include an ideological commitment to 'internalised' community negotiations where parental conflict exists; a belief that the law has no place in personal and family relationships, and fear of anti-Traveller discrimination by officers of the court and the legal system.

Although the initial aim of this study was to undertake research into New Travellers experiences of family law interactions, contrary to expectations, (and as described in detail in chapter three) fieldwork revealed that the great majority of Travellers actively avoid legal encounters for both cultural and practical reasons. Given this

unexpected, (and major), finding it proved necessary to extend the aims of the research to include a consideration of Travellers' preferred parenting patterns, family conflict regulation, and community devised practices which support an on-going commitment to children.

Overall, a total of twenty three in-depth interviews were carried out, eleven with informants who had come to their 'own arrangements' over contact and residence, and twelve with Travellers who had engaged (or subsequently failed to proceed) with legal action over their children. While 'court case' interviews were carried out throughout the fieldwork periods, (as and when it proved possible to access an informant who had relevant experience of the legal system), 'own arrangement' interviews proved far easier to arrange, and were completed within a relatively short period of time. Indeed, it would have been possible to carry out three or four times as many interviews with families who had devised their own post-separation parenting regimes had I begun to consult with this group at an earlier stage, rather than persisting in seeking a purposive 'court case' sample. Thus, despite the larger pool of available informants, only a limited number of interviews were carried out with this latter group, to enable a comparison of attitudes and experiences between this sub-sample and those individuals who engaged with the law. Narratives were taken from 'own arrangement' parents until roughly equal numbers of 'court' and 'non-court' informants had been gained, saturation point appeared to have been reached (in terms of data gathered), and the period set aside for fieldwork had ended.

Inevitably though, the question arises of whether the problematic of obtaining 'court case' interviewees, (and hence the finding relating to Travellers' decreased likelihood of engaging with legal proceedings), is an artefact of the selected methodologies; with a flaw in the research design leading to a low level of 'legal' informants. For example, it could be as simple as 'court case' informants being reluctant to discuss their experiences, or my choice of fieldwork locations placing me in closer contact with groups of Travellers who opt to avoid formal proceedings.

Consideration of the methodologies however, enables confidence in this key finding for the following reasons. As described in detail in chapter three, interviewees were sought from a variety of locations, and advertisements and 'word of mouth'

recommendations were widely disseminated among the nomadic community. As such, 'court informants' would be as aware of the research aims as were 'non court' interviewees. Overall, little variation appeared to exist between 'court' and 'non-court' samples in terms of reluctance or eagerness to tell their narratives, and indeed 'non-court' Travellers with complex tales could on occasion prove more elusive than 'court' informants, despite an individual's stated willingness to provide an interview.

Once the 'word of mouth' process was underway, and my credentials had been established, it became slightly easier to obtain 'court' informants than during the early stages of the research, when some site inhabitants regarded me with suspicion, and were not particularly forthcoming over their experiences. In general, as the fieldwork progressed, individuals who knew of Travellers who had engaged with legal proceedings were anxious to bring such narratives to my attention, often referring to the necessity for someone to 'do something' about perceived prejudice in the legal system.

As such, I am confident that the generally positive way in which the research has been met within the nomadic community, has enabled me to access (or learn of) a considerable proportion of Travellers who have engaged with formalised legal proceedings over their children. Overall, despite the large numbers of Travellers I was in contact with during fieldwork, (if one excludes 'advice seekers' who contacted me once fieldwork had ended), I became aware of less than ten 'court' cases where it proved impossible to track down a protagonist and obtain an interview, and these cases ranged across the entire country. As such, I have every certainty in my assertion that legal proceedings are but rarely used among this community, and then only in extreme circumstances.

In addition, and of major importance in enabling confidence in the findings, the participant observation element of the research permitted me to become involved in discussions around family behaviours, and observe the negotiations and contact/residence arrangements carried out by separated families. In one case, I was fortunate enough to be able to observe post-separation arrangements undertaken by an informant who had participated in the pilot study. At initial interview, this Traveller had children by an earlier relationship, and one child with their current partner.

Between the pilot study and main study the informant had separated from their current partner (who was resident on a site I stayed at during the main fieldwork) and I was therefore able to witness a 'textbook' negotiation of contact, cautious re-establishment of friendship between the parties and the mother's new partner who was also a Traveller, and the early stages of a shared parenting arrangement which involved all children of the family despite the lack of a blood tie between the youngest child's father and the other children. In this case, the observations undertaken were informed by knowledge of both parties' circumstances, stated parenting preferences and ethical beliefs. While this was but one case, and I was fortunate that I had prior knowledge of this family's situation, I was also able to observe other parenting arrangements, and hear details of disputes and agreements, as and when they arose, and thus feed this knowledge into the schema presented within the thesis.

Inevitably individuals were on occasion cautious in what information they chose to reveal, but residence on site, and in particular working alongside informants as site crew etc. meant that over time individuals accepted me (to a large extent) as one of their own, and hence worthy of receiving narratives which might not have been forthcoming in other circumstances. In this way, not only parenting arrangements but other methods of social control (such as eviction from site in cases of violence) were observed, and discussed in both social and formal interview contexts (see Okely, 1983; Sutherland, 1987), enabling triangulation of methodologies. Finally, my confidence in the findings relating to Travellers' reluctance to proceed to court or seek legal advice are re-affirmed by both CWO's comments on the prevalence of internal community dispute resolution (see 'professional interviews' Appendix 4) and post-fieldwork discussions with Travellers (and professionals), who, after hearing of the research, have contacted me for advice on family rights, responsibilities, and parenting patterns.

Travellers who have engaged with the law

Given that we are confident in the validity of the finding that where possible Travellers avoid family law proceedings, it follows that it is important to consider what circumstances override this cultural reluctance and trigger legal engagement. For the purposes of analysis, informants who had initiated legal proceedings were in the first instance considered separately from those Travellers who had responded to action

brought by another party, to enable us to scrutinise these sub-groups' attitudes towards 'use' of the law and identify circumstances which justify such 'non-normative' behaviours.

Key finding two: very little variation existed between either 'court' group and 'non-court' informants in terms of their attitude towards use of the law. Both groups of 'court case' informants ('initiators' and 'respondents') were aware that engaging with the legal system would be seen as outside of 'Traveller-appropriate' behaviour, and were (or became) aware of the 'fact' that they would experience lifestyle-based discrimination in court proceedings. As such, use of the law was considered to be very much a 'last resort' at times of absolute family crisis.

While legal 'initiators' and 'respondents' shared concerns over engaging with the court system (and in some cases failed to proceed to court: see chapters 5 and 6) noticeable similarities exist between the sub-samples in terms of events which trigger legal proceedings. All but one 'initiator' was in a position where a previously close relationship with a child was being challenged, and the parent was being threatened with exclusion from the child's life. In the only case where a parent was not being actively denied (or threatened with loss of) contact with a child, the former partner had physically abducted the child and the informant sought to ensure the safety of her daughter by establishing formal residence guidelines. All but one 'initiator' was in opposition to a former partner, and almost all cases involved a dispute over whether a child should be able to Travel or visit sites.

'Respondents' too, reacted to a crisis in a parenting situation. In common with 'initiators', Travellers in this sub-group were threatened with loss of a relationship with a child, as informants were all resident parents experiencing an application for remove their child from their care. While in the majority of cases the opposing party was a former partner, who cited 'lifestyle' as a reason for applying for residence, some 'respondents' engaged with care proceedings brought by a social services department. In social services cases, had the Traveller been resident on site at the time in question, the nomadic community would have dealt with the adult's problematic

behaviour and provided suitable care for the child while the issue was dealt with internally.

Overall, very few cases involved two Traveller former partners, as it is rare that disputes between members of the same community cannot be internally resolved by the use of extra-legal negotiations. Thus, it can be seen that an extreme situation triggered all legal engagements, and that, either as a result of the non-Traveller opponent's failure to engage with the nomadic community's dispute resolution processes, or a total breakdown of trust between the parties, informants considered they had exhausted all possibilities prior to seeking legal advice.

However, while trigger events reveal few differences between 'initiators' and 'respondents', variations are found to exist between the two 'court' groups in terms of steps taken prior to engaging with formal legal proceedings.

Key finding three: 'court initiators' undertake a sometimes slow process of community validation, prior to enlisting legal assistance in family disputes. 'Respondents', as a result of the necessity to move rapidly to fit in with the timetable of the court, (and their role as an 'injured party') generally find it easier to obtain community support when taking legal action, and thus do not need to undertake the same process of validation followed by 'initiators'.

While both 'legal' sub-samples believed that they have no option but to seek legal assistance, or lose contact/residence of their child, the degree of urgency in the situation appeared to be of fundamental importance in determining levels of community support and socially required negotiation processes. Given that if an individual is *responding* to legal action, set processes must be carried out within short time scales, e.g instruction of a solicitor, gathering of supporting reports, etc. the element of constraint placed upon an individual means that seeking legal assistance is perceived of as a 'defensive' behaviour, triggered by the opposing party behaving in a 'non-Traveller appropriate' mode. Thus responding to legal action is both morally understandable and worthy of community support. Alternatively, (and despite the extremity of their situation) a Traveller who initiates court proceedings, is not only

breaking the moral code which holds that to resort to legal action is step outside the ideology of 'correct behaviour', but is also responsible for setting the timetable to which the other party must respond. Thus in order to justify their non-normative behaviour and access community support, the Traveller 'initiator' must show that they have exhausted all possibilities for negotiation, have thought through the consequences of their actions and that members of the community consider their reasons for interfering with another individual's autonomy have been adequately made out by virtue of the disproportionate behaviour of the other party, and impact on the children of the family.

'Court' sample's subjective experiences of the legal process

Key finding four: despite the different 'pre-legal' processes followed by 'initiators' and 'respondents', once Travellers have sought legal advice and entered into the court process, the division between the two groups collapses. Analysis of Travellers' experiences of court officials, advice received and orders made, show little variation between the two 'court' groups.

Interactions with solicitors: Overall, only two Travellers were able to obtain family law advice from solicitors' who had previous experience of working with nomadic clients, and hence any comprehension of specialist cultural needs and family practices. In both of these cases, the informants received 'word of mouth' recommendations, which led them to a particular firm of lawyers.

The overwhelming majority of informants reported that they were dissatisfied with the level of support and representation they obtained from their lawyers, with most complaints based upon the culturally inappropriate advice and tactics recommended by their solicitors. Three informants reported their solicitor indicated disapproval of their way of living, explicitly favouring a settled home base for children, and as a result of their lawyer's attitude, each of these Travellers eventually changed to another practice. Yet another informant referred to her solicitors' recommending the use of explicitly discriminatory tactics against her Traveller former partner, focussing on soft drugs use, nomadism etc.

Male informants report that solicitors were very negative about their chances of success in legal proceedings, based primarily upon their gender, followed by their adherence to a nomadic lifestyle. Given the high success rate of applications for contact by 'absent fathers' (see Chapter 2) this appears to represent a failure in the legal advice giving process, and perhaps indicates that lawyers concentrate more on lifestyle factors than the current state of the law.

Males who had engaged in a full shared parenting relationship (see below) prior to dispute, reported that they were advised to apply for a contact order regardless of the previous arrangement. No applications were made for shared residence, and Traveller fathers (in particular) were clearly disturbed by the notion of 'winning and losing' custody, which is in direct contrast to the ethos of on-going shared parenting enunciated by the majority of NTs (see chapter 7).

Some informants referred to regional variations in solicitors' practice, claiming that some localities were 'Traveller-friendly' areas. Court proceedings (and indeed orders made) in these particular locations (Welsh borders and South West England), did seem to reflect a greater awareness of Traveller practices, and indeed a more open-minded approach to nomadism. This theme (while involving too small a sample to be more than suggestive), supports the supposition that officials in localities where Travellers tend to congregate, will have a greater awareness of this minority's family practices, and accordingly may demonstrate a willingness to innovate within the confines of the Children Act.

Tactics recommended by solicitors: all but one informant reported that their solicitor advised them to move into conventional accommodation (or remain housed rather than seasonally nomadic) in order to establish 'settled' credentials, and increase their likelihood of obtaining the desired order. Informants expressed clear indignation and distress at receiving this advice, although several Travellers undertook to 'settle' for the duration of the case. Given that anecdotal tales of Traveller legal interactions tend to focus on a belief that a housed parent will always obtain residence of a child, solicitors' advice giving in this area helps to perpetuate the myth that Travellers will

not receive a fair hearing, despite the fact that some 'out' Travellers obtained their desired result in court.

Closely related to the above point, is the issue of NT identity and popularist perceptions of Traveller behaviours. All but two informants were advised by their solicitor to downplay their Traveller identity (see chapters 5 and 6). Commonly suggested ways of doing this, involved attending court in a suit or smart clothes, cutting long hair, advising an informant not to mention they were Traveller but to discuss working on 'community projects' or being a 'reformed character' who had given up living a nomadic life. Once again, such tactics tend to reinforce the notion that Travelling involves a set of behaviours to be ashamed of, and that adherence to such a lifestyle will result in discriminatory treatment in court. As such, this mode of advice giving both alienates Travellers and reinforces their sense of dislocation from the family justice system.

Interactions with Social Workers and CWO's: Of the Travellers (both 'initiators' and 'respondents') who had contact with CWOs and SWs, a number of informants had contact with several 'professionals' over the duration of their case. In a number of narratives, informants reported that their dissatisfaction with the appointed officer led to them requesting a change of CWO or SW, or personnel were changed when court cases were moved to a new location.

Overall, all but two encounters with CWOs/SWs were reported as negative experiences, with a high level of discontent expressed by informants. Only two officers were reported as demonstrating any form of cultural awareness or indeed sympathetic stance towards a nomadic lifestyle and Travellers were more critical of CWOs/Social Workers than any other legal officials encountered.

However, where 'professionals' were noted as having had previous contact with Travellers or demonstrated a willingness to find out more about their lifestyle informants were not only both positive in their attitude to these officers, but appeared more willing to engage with procedures which impacted on their privacy or limited their mobility, such as a requirement that a child was monitored as attending at a particular school on a daily basis.

Overall, only one CWO was reported to have previous experience of Travellers and this officer used his level of knowledge to build a close working relationship with the informant, providing the Traveller with advice, parenting support and assistance which led ultimately to the informant obtaining residence of his children. While no social workers were believed to have prior experience of Traveller cultures, one informant praised a SW for his level of open-mindedness and good quality reports on the family once he had taken the time to communicate with the local Traveller Health and Education Teams and discover more about both the family as individuals, and their culture. It is noteworthy that (in contrast to the location where the children were placed in care) this particular social worker was based in a 'Traveller-friendly area' and was therefore able to access informed information on nomadic practices from professionals who knew the family well.

In general though, CWOs/SWs were widely perceived of as prejudiced against Travellers, lacking in cultural awareness of 'non normative' lifestyles, and intent on ensuring children remained housed rather than Travelling. Particular criticism was levelled at these professionals for their rigidity of attitudes towards conventional family backgrounds (e.g inability to recognise shared or block parenting as providing stability for a child) and preference for school rather than home education.

Informants appeared to find CWOs/SWs lack of knowledge of Traveller issues particularly concerning, given that they seemed to have some awareness of these professionals anti-discriminatory training, and the nature of their role.

Given informants' generally negative experience of CWO/SW interactions, it is noteworthy to consider the findings of the limited number of interviews carried out with CWOs and solicitors who had experience of Traveller clients (see Appendix 4). This suggested that important variations (in terms of practice and attitude) exist between the purposive sample of 'experienced professionals' and the officers referred to in Travellers' narratives, with the 'professional' interview sample broadly concurring with NT informants in terms of recommended actions, willingness to discuss solutions with the nomadic client and awareness of 'alternative' family practices.

Key finding five: solicitors, court welfare officers and social workers were overwhelmingly reported to be lacking in cultural awareness, and in some cases to explicitly favour a 'settled' lifestyle in preference to nomadism. While most 'professionals' were regarded as 'closed-minded' in their attitude to Travelling, where individual officers proved willing to find out more about Travellers' lifestyle, or to work in partnership with the client, positive relationships were able to develop, with a decrease in the use of culturally inappropriate orders or tactics, and an increase in cooperation and respect between the officer and the nomadic community.

Court experiences: For most Travellers who proceeded to full trial, the court case was as stressful an experience as they had expected, with a number of informants reporting that their nomadism, adherence to paganism, or other aspects of their lifestyle, proved of focal importance during the case.

However, in terms of quality of court experience, and the questions allowed by the presiding authority, informants generally rated county court judges with significant family experience more highly than magistrates (in common with 'professional' informants, see Appendix 4). Two informants explicitly referred to judges' demonstrating respect for their lifestyle choice, and recognising it as providing a valid upbringing for a child.

Court Orders made: Travellers' narratives indicate that a disproportionate number of prohibitive orders are made in cases involving a nomad, implying that judicial authorities are suspicious of the degree of mobility available to Travellers, and consider that members of this community may breach standard interim contact arrangements unless additional steps are in place.

During interim proceedings contact was ordered to take place at a contact centre in four cases, and supervised by the opposing parent or a third party in another three cases. This is an exceptionally high percentage of supervision orders, and runs contrary to general judicial guidance (LCD, 2000) in terms of use of supervised

contact. Overall only three parents were able to have unsupervised contact over the course of proceedings.

Prohibited Steps Orders (PSOs) were also found to be used more routinely in 'Traveller cases' than among general Children Act applications, where they only account for 10% of orders made. One third of the Traveller sample interviewed reported that a PSO was granted to the opposing party during their case. Overall, three out of five Traveller informants who had physical custody of their children were served with such an order, indicating judicial suspicion that a Traveller would be more likely than a member of the mainstream population to 'disappear' with their child rather than attend at court.

While ultimately all but one informant who proceeded to court received the order they had applied for, Travellers generally considered that the orders were unsuitable in terms of imposed terms, e.g set contact times, monitoring of a child's school attendance prior to return of child to primary carer etc. as these conditions fail to engage with the reality of a nomadic lifestyle. For example, in seven cases, shared parenting or 'block contact' visits were in place prior to court proceedings. In no case where court intervention occurred was the reality of the contact/parenting arrangement recognised and significantly less contact would occur if the parties held to the court order.

Key finding six: although legal proceedings allowed for resolution of the dispute, with the majority of Travellers broadly receiving the outcome they had sought, in terms of orders made, informants were dissatisfied with conditional requirements which disproportionately discriminated against nomadic applicants by failing to reflect the realities of their lives, or the nature of the prior parenting arrangements.

Travellers post-court parenting arrangements: These varied according to their legal opponent. Informants who had engaged with proceedings with non-Traveller former partners tended to hold rigidly to the court ordered agreement, as their former partner was generally unwilling to negotiate a variation in terms. However, in several cases, over a period of time the agreed contact arrangement was dropped, with 'settled'

fathers more likely to show diminished interest in retaining contact with a child who had been the subject of an order. For some families however, a rigid contact schedule was adhered to, regardless of the difficulties inherent in leading a nomadic life and arranging to be present at a particular location at a set time. Where social services intervention led to a supervision order, until such time as the order expired, terms were generally complied with, although once again, this could cause considerable problems for a nomadic family, such as the requirement to be at a particular place on a certain date.

In contrast, in the few cases where two Travellers had been in dispute, a mutually agreeable arrangement (often identical to the pre-court arrangement, and generally contrary to the court order) was rapidly negotiated between the couple, allowing for a return to the status quo, reassertion of community norms and values, re-establishment of the 'initiating' individual's damaged social standing and most importantly, provision of a practical solution to the problems of on-going parenting while living a nomadic life.

Key finding seven: where possible, nomadic Travellers who have engaged with legal proceedings rapidly by-pass court orders, and return to/negotiate a mutually agreeable parenting pattern once the case has been concluded. Such 'Traveller-appropriate' solutions appear to reflect nomadic families' needs to re-establish community solidarity (by negating the seriousness of the dispute) and ensure that contact/residence arrangements fit within the practical constraints of their lives.

Five of the informants who have attended court in connection with their offspring have children from subsequent relationships, which have since ended. These later parenting arrangements (all of which involve other Travellers) have been made without recourse to legal action, although one father (as a result of his previous experiences) insisted that a formal PR agreement be made in respect of his daughter. All 'court case' informants are adamant that they would avoid family law proceedings in future if at all possible, as they had found the case so difficult and culturally inappropriate.

Traveller 'Wish-List' in Family Court interactions

Analysis of Travellers' narratives reveals a number of clear themes relating to culture clashes and inappropriate advice-giving processes when legal professionals engage with members of this minority group. While informants were not explicitly asked for their views on improving professional practice, a number of interviewees volunteered their opinions on what factors would constitute a 'positive' legal contact and referred to personal experience (or anecdotal knowledge) of 'good practice' which enabled the informant and the practitioner to develop a relationship of trust and respect. A consideration of both 'positive' and 'negative' elements of Traveller/legal interactions were therefore amalgamated, to enable the drafting of a 'Travellers' wish-list' (see Appendix 4) and resultant good practice proposals (see below).

'Best practice' proposals for professionals engaging with Traveller families

Having considered Travellers' narratives of legal interactions, the Travellers' 'wish-list' devised from their discourse on court proceedings and professional contacts, and the 'professional' interview findings (see Appendix 4), it is possible to identify practice implications and recommendations for legal officers working with this group.

One of the most striking findings relates to how both Travellers and 'professional' informants agree on the importance of cultural knowledge in reaching mutually agreeable solutions which do not unduly impact on a legitimate way of life. Informants are also in agreement that the supposed anti-social behaviour of Travellers is to a large extent exaggerated by lawyers and opposing parties, either as a result of fear, or the conscious use of discriminatory legal tactics. Thus discourse on drug addiction, neglect and 'unstable' lifestyles tends to be discounted by both NTs and experienced legal professionals, with a recognition from both sides that unacceptable behaviours and attitudes are found among as many (or as few) of the settled population as among nomads. However, it is self evident that to avoid the negative impacts of such cultural demonisation, professionals with no prior (or limited) experience of nomadic families require access to anti-discriminatory training and reliable information on members of this group.

Recommendations for improving professional practice (below) are therefore an amalgam of 'best practice' followed by experienced CWOs and solicitors, (whose

practice quite independently tend to reflect the stated desires of nomadic families) and a considered response to the 'Travellers wish-list' submitted as Appendix 4.

Solicitors/legal advisors:

- Should, when providing advice to Travellers, find out as much as possible about the client's lifestyle, support networks/significant adults in a child's life, stability of sites, access to services etc. Discuss mobility patterns, and the practicalities of standard contact/residence orders.
- Remain non-judgmental, even where clients discuss drug use or potentially illegal situations, and retain an awareness of cultural contexts, i.e. a client may well consider 'soft' drugs use acceptable, but would be appalled at any suggestion that they were involved with Class A drugs, or that drugs use per se equates with poor parenting skills, etc.
- Where disputes involve two Travellers, parties do not wish to attack a person on the basis of their identity, placing community solidarity above personal animosity. In such cases, to avoid alienating the client, advice tactics should focus on an individual's ability to care for a child (even where this may involve assistance from other members of the community), not on their choice of lifestyle.
- Be aware of cultural diversity in parenting arrangements and the validity (and practicality) of block contact or split residence orders. When applying for s8 orders, previous parenting arrangements should be put to the court, and consideration given to shared residence applications, or the making of representations to the bench on the prevalence of, and practical constraints involved in rigid orders.
- Indicate their willingness to seek 'expert' advice from Traveller Education Services, specialist Health Visitors, academics and social workers with experience of Traveller families, who may be able to provide background information to the court to enable some aspects of the case to be dealt with in the appropriate cultural context.
- Be willing to listen to the client, they are the expert in nomadic life and will know whether proposals are likely to break down given practical constraints on their daily lives.

- Avoid advising clients to ‘downplay’ their nomadic identity or settle into housing, as this perpetuates the concept of Travelling as ‘deviant’.
- Retain an awareness that NTs are likely to wish to work in partnership with their legal team rather than simply following advice.

CWOs/Social Workers:

- In common with legal advisors, these professionals should, (where possible) attempt to work with Travellers in partnership, in order to minimise misunderstandings and maximise the potential for working positively.
- Where CWOs/Social Workers with prior knowledge or personal experience of Travelling lifestyles are known, care should be taken to match client and officer to facilitate communication.
- Should retain an open-minded approach to Travelling, recognising it as a legitimate lifestyle option. Care should be taken to strike a balance between nomadic families’ cultural practices, and the child’s right to access appropriate educational facilities (whether in school or through home education) and retain on-going relationships with family members and close friends.
- Should be willing to enter into dialogue with professionals who work with nomadic families (see above), and obtain information and advice on practices and cultural behaviours which may make perfect sense within the nomadic context, although considered ‘unusual’ in the ‘mainstream’ context.
- Need to be aware of the variety of parenting arrangements undertaken by members of this community (e.g ‘family of choice’, block contact), the high degree of autonomy granted to children at a fairly young age, and ‘community’ aspects of parenting e.g transferring children across the country via a network of Travellers, short-term unofficial fostering of children whose parents are temporarily unable to look after them adequately, etc.
- Discuss the impacts of proposed arrangements on employment prospects, support networks etc. and ask the client whether they have suggestions for contact etc. which might fit better with the nomadic lifestyle than standardised procedures.

Members of the judiciary

- Should ensure that court orders are not used in an inappropriate or discriminatory manner, resulting from poor information on Travellers' habitual movements, or perceptions that members of this group might default on contact/residence orders.
- Need to consider the innovative use of flexible contact/residence orders to enable a child to remain in a close relationship with both parents and other close associates, while receiving education through home teaching, etc.
- Where shared parenting arrangements have been in force prior to legal intervention, then where possible this pattern should be continued. As a general policy point, greater use of split residence orders should be made in such circumstances.
- When conflicts over actions and omissions exist (e.g children assisting with work, non attendance at school), be open to receiving evidence from experts who regularly work with Travellers, e.g health visitors, Traveller education services, etc. to ensure that families are actually adhering to cultural practices rather than attempting to excuse behaviours which would be unacceptable to most Travellers.

All 'professionals'

- Equal opportunities and anti-discriminatory training should include information on Traveller culture and family practices, and monitoring should occur to ensure that members of this community do not experience either direct or indirect discrimination by legal officers and other professionals.
- Inter-agency approaches should be taken by professionals working with Travellers, to ensure that input is received from health, education and other agencies when considering needs specific to members of this group.
- Court/Social Services referral systems need to be adapted to recognise the needs of nomadic families in the following ways: mobility of Travellers should be recognised in the speed of response to referrals (including the pressures caused by enforced evictions), culturally sensitive SWs/CWOs should be available to deal with members of the nomadic community in family related cases (perhaps centrally registered and 'on loan' to areas as needed);

and in all areas with high numbers of Travellers, specialist resources/designated SW provision should be available, to ensure that outreach work is already in place with members of the community, thus breaking down the barriers of mistrust and fear which exist between members of the 'settled' and 'nomadic' communities.

The above practice recommendations are based upon a recognition that interactions between Travellers and organs of the state can be highly problematic, with issues of client disempowerment, and service users' participation in framing culturally appropriate official responses, often marginalized by officials' focus upon 'nomadism', rather than an individual's ability to care for a child. By reframing the issue (in the manner suggested by CWOs in Appendix 4) to accept Travelling as a legitimate lifestyle, it becomes possible to accept that theoretical, policy and practice developments relating to equality of treatment, are as valid for NTs as for minority ethnic or same sex families, and thus move forward to a position where genuine concerns are addressed in a manner which does not undermine Travellers' communities and culture. Thus by ensuring that CWOs, members of the judiciary, Social Workers and solicitors are familiar with, and understanding of, nomadic culture and family practices, the risk of pathologising the Traveller community is diminished and positive aspects of parenting behaviours and community relationships can be considered by all agents involved in the making of court orders. Moreover, where greater knowledge of community practices exists, more appropriate court orders may be devised or granted, increasing the likelihood that children will be able to retain a strong relationship with a non-resident parent, and diminishing Travellers' fear of engaging with court processes.

Travellers and 'extra-legal' post-separation parenting arrangements

As discussed in detail throughout the thesis, the great majority of Travellers avoid interacting with the legal system when making family arrangements, and are anxious to stress that seeking 'outside' assistance in parenting disputes is a breach of social norms, only rarely resorted to by members of their community. It is therefore of significant importance to consider *what* enables Travellers to parent in an essentially

co-operative manner once a couple have separated, and *how* contentious family matters are resolved without generally resorting to law.

Key finding eight: strong social pressures exist on Traveller parents to remain in contact with a non-resident child, and to participate in some form of 'shared parenting'. Re-partnering with a member of the nomadic community reinforces this expectation of on-going parenting, through mutual adherence to a common ideology of 'Traveller-appropriate' behaviours.

Placing a high value upon children, and accepting some degree of collective responsibility for the upbringing and welfare of the next generation, appears to be inherent in the 'moral contract' adhered to by members of the Traveller community. While it is inevitable that individual degrees of commitment to this element of the ideology of 'Traveller-appropriate behaviour' will vary, overall, the expectation that parents will remain in contact with their children, and share in their upbringing is widespread enough to constitute a norm of this society.

The nature and duration of the parental relationship appears to have little impact on social expectations that both parents are responsible for the care of their children, and this is supported by discourse on post-separation childcare, with the majority of informants reporting that shared parenting arrangements are the ideal, to be aspired to on the grounds of 'fairness'. Thus, Travellers' notion of familial responsibility do not appear to follow the pattern identified by Smart & Neale, (1999), Maclean & Eekelaar, (1997) and Bradshaw et. al. (1999) which indicated on-going child contact is often related to the quality of the parental relationship and level of commitment to the former partner rather than to the children of the relationship. Moreover, while Smart & Neale (1999) suggest that post-separation shared parenting is strongly related to the parenting pattern followed while a relationship is extant, among the Traveller sample, even couples who had never lived together, or whose relationship was of a casual nature and short duration, appeared to adhere to the notion that both parents *should* actively share childcare. Thus, it would appear that among the Traveller sample, the mere fact that a child exists, triggers a number of expectations

and behaviours which are both socially constructed and monitored by the community (see below).

In this way, children are ensured of continuity of relationship with their parents, with the ideological contract ensuring that despite the fairly high rate of change of partners, which appears to exist among this community, the parental-child bond remains strong. While in 'mainstream' society, some debate exists around the psycho-social effects on children of their parents' practicing serial monogamy (Ferri, 1984; Elliott & Richards, 1991, Wallbank, 1998) in the Traveller context, this does not appear to be regarded as a difficult issue, with the concept of on-going parenting focal to notions of responsible childrearing, rather than continuity of adult personal relationships.

While in practice, some individuals may not fulfil their 'moral' responsibilities in terms of participating fully in their children's lives, the largest category of informants did indeed share care of their children, with the children living with them for block periods of several weeks or months, prior to returning to the other parent. Findings indicate too, that contrary to 'mainstream' research (Maclean & Eekelaar, 1997; Bradshaw et. al., 1999) which suggests that re-partnering may have a negative effect on on-going child contact, new partners who are fully integrated into the Traveller ideology, are often instrumental in placing moral pressure on a 'backsliding' parent to fulfil their social responsibilities to their children. Indeed findings from several cases indicated that a form of ideological 'partnership' between former and current partners can lead to increased ease of negotiation over shared parenting arrangements, with the mutual agreement on 'Traveller appropriate parenting behaviour' overcoming tensions which exist as a result of the shift in relationships.

Thus, re-partnering from within the pool of available Travellers who adhere to a particular ethos of parenting, encourages social cohesion in terms of expected family and community behaviours, and may assist in strengthening kinship ties between related children and their parents. In turn, the network of family relationships, which develop through these extended kin-groupings, can increase an individual's social capital through expanding their connections (and expectations of reciprocity) within the nomadic community.

Key finding nine: Travellers' attitudes towards gender roles encourage a range of post-separation parenting relationships and expectations of shared childcare responsibilities. Even where no blood tie exists between a child and de facto parent, established social parenthood relationships will often continue beyond the duration of an adult partnership, as 'Traveller appropriate behaviour' emphasises continuity of contact and responsibility once a caring relationship has been established.

While it can be demonstrated that Travellers who adhere to a common ideology are likely to both remain in contact with their children and (where possible) partake in some form of shared parenting arrangement, there is also evidence that the broadly gender-neutral attitudes found among this community encourages Traveller males to participate in childcare, regardless of whether they are biological or social fathers or merely resident on a 'family' site. The corollary of high levels of male participation in childcare, is that the main burden of post-separation parenting is not automatically assumed to rest with women. While 'mainstream' studies (Smart & Stevens, 2000; Smart & Neale, 1999) indicate that the majority of separating parents either 'don't think about' shared parenting or paternal residence, or automatically agree that the mother will be the primary carer, the expectations that Traveller males will assist with child-care and domestic chores predisposes separating (or never cohabiting) parents to reach an agreement whereby a child spends time with both adults on an alternate basis (cf. Smart & Neale, 1999 for a discussion on the influence of pre-separation parenting patterns on subsequent childcare). Social pressures within the nomadic community therefore exert a greater pull on both parents to follow non-gendered parenting patterns, than to adhere to a 'mainstream' model of maternal care and paternal contact. Given the notion of 'fairness' which imbues Travellers self-perception, to expect one adult to decrease their employment (and economic) opportunities and increase their social and practical responsibilities through unsupported parenting, would therefore involve a breach of the moral contract, and expose the defaulting parent to considerable social censure.

The non-gendered (often seasonal) employment favoured by Travellers supports this concept of gender equality, as such work tends to consist of blocks of intensive labour carried out over a period of several weeks. Given the fact that both parents will often

work in the same industry, and are aware of the requirements to make money while employment opportunities exist, (see Webster and Millar, 2001) in the interests of economic parity it makes sense for a child to move between adults for 'block' contact and shared parenting. The fact that a father may have sole (albeit community supported) responsibility for a child for several weeks on end, further develops the paternal bond, and moreover leads to greater understanding of the problematic of gendered roles than is typically found among males, given the clear evidence which exists of women's dual burden of paid employment and domestic responsibilities (Baxter, 2001; Finch & Mason, 1993; Morgan, 1991).

Only where a parent is 'unfit' to care for a child through psychiatric or physical illness or drug or alcohol dependency is the expectation of shared care diminished, and even in these circumstances, considerable efforts will often be made by the community to support some form of on-going care (see below).

Where one adult is required to be the primary carer as a result of the other parent's disability, gendered expectations do not appear to exist, with males apparently as willing to take on responsibility for dependent children as are women. Moreover, within the Traveller community, lone fathers encountered during the research appeared to take on this role when their child was of a younger age than is usual in the 'mainstream' population (Barker, 1994), and were less likely to be forced into the situation following a mother's neglect of a child, or social services intervention (Barker, 1994). Where a mother is unable, or unwilling to care for a child, little community censure appears to exist among Travellers as long as she remains in regular contact with her child, even if full shared parenting does not occur. Thus, where the 'ideal' of shared parenting cannot be fulfilled, expectations of primary care remain gender neutral, with the most 'appropriate' adult expected to carry out this role, based upon ability and temperament rather than their gender.

In the few cases where a child is not in contact with one parent (noted mainly in cases where the other parent is a non-Traveller or the parent has a serious addiction problem) if a relationship of social parenthood is established (i.e. with a step-father who is the parent of half-siblings), then community expectations will exist that the social parent remains responsible for the child beyond the duration of the adult

relationship. Thus in the Traveller context it is not uncommon to find a separated parent sharing care or retaining contact with the non-related child of a former partner. Breaches of these social relationships are regarded almost as seriously as losing contact with a related child, and some narratives referred to a neglectful step-parent being 'spoken to' about their breach of this community norm.

Key finding ten: community support and social censure combine to create a framework for gender-neutral parenting and 'moral' behaviours. Individuals who breach the 'moral contract' with regard to their children will experience loss of social capital and public 'naming and shaming', while members of the community who require support to enable them to meet their family responsibilities are able to utilize a variety of techniques and non-judgemental assistance aimed at sustaining post-separation family relationships.

It can therefore be seen, that NT society functions in a fairly basic but effective manner to control the behaviour of members of the community (and see Sutherland, 1987; Okely, 1983, for a discussion of similar techniques utilised by Roma Gypsies). Thus, Travellers operate within a fairly rigid framework of moral expectations where children are concerned, while conversely retaining a high degree of flexibility and open-mindedness about adult relationships. These two potentially conflicting paradigms are mediated, (and balanced) by a complementary set of rights and responsibilities. Certain behaviours therefore, which might be outside of acceptable 'mainstream' values, are tolerated, as long as an individual adheres to a set of core 'internal' standards. In exchange for this non-judgmentalism, a Traveller will (where it is necessary) be expected to access assistance to enable them to meet their family and community responsibilities, and can anticipate public censure if they wilfully refuse to conform to the ideological framework, or through act or omission, breach the moral contract without good reason.

For example, a parent who is substance-dependent, may in the 'mainstream' world be denied contact with a child. Within the nomadic context, this treatment would be regarded as unduly harsh, punishing both adult and child for a physical dependency, perceived of as a 'problem' rather than a moral issue. Instead of receiving censure, the

parent would generally be supported by the community to enable them to retain a relationship with the child in a safe context. Only if the adult continually breached rules relating to safety and/or reliability would the other parent be considered justified in ending contact, and then usually only after community validation of their decision, accessed in a similar manner to the 'legal action decisions' outlined above.

Community censure will usually take the form of public discussion of an 'offender's' breach of social norms, with gossip acting as a social control mechanism. In extreme cases, an individual may be asked to leave a site, or other residents may move away to avoid residing near to the offender (see Martin, 2002). Finally, and as an ultimate sanction, used only very rarely and in particularly severe cases of violence or abuse to a partner or child, a person may have their vehicle burnt out, rendering them both homeless and socially stigmatised, given the rapidity with which news spreads through the Travelling community.

While eviction and destruction of property are sanctions which are rarely used, 'naming and shaming' as a way of bringing conflictual issues out into the open tends to lead to a rapid resolution of disputes, with agreement based upon a consensus of opinion about acceptable behaviour. As referred to above, narratives revealed that it is not uncommon for a partner of a Traveller (or their friends) to take the 'side' of the other parent in a dispute, if it is considered that an individual has breached community expectations over child-care. Analysis of discourse relating to these 'community' forms of dispute resolution, indicates that the party held to be in breach will generally amend their behaviour, or if too mortified, or reluctant or unable to change, will move away from the nomadic community, either into housing on a temporary or permanent basis, or to another locality. However, given the closed nature of Traveller society, it is not usually possible for a person with a 'bad reputation' to avoid the repercussions of their omissions or actions, and thus social disapproval appears to function fairly well in restoring parenting relationships which are at risk of breaking down. Where however, an individual is 'exiled' from the community, or elects to move into housing or to an isolated locality to escape censure, it is still possible to restore a damaged reputation by seeking to make amends for the breach of social norms, and adhering to the moral contract in future. If other members of the community (in particular the injured party) are willing to downplay the dispute, while a Traveller's reputation will

have suffered, the offending party will, over time, be restored to their former social status.

Key finding eleven: Travellers operate reciprocal networks of 'transport' and childcare, enabling parents to move children across the country safely and cheaply for contact and shared residence purposes. 'Known adults' will also assist with emergency unofficial fostering in times of crisis.

The obverse side of community sanctions is the availability of a practical and emotional support network, which can be accessed in times of need, or merely as a way of assisting Travellers to parent effectively. As has been discussed above, shared parenting is a practical and ideological response to the requirements of separated parents. Given the mobility of the Traveller community and sometimes large distances which separate parents who share child care, it has therefore proved necessary to devise practical solutions to facilitate contact between children and their carers, (while saving on both fuel costs and emotional stress if the parents are in conflict). Thus, among Travellers, it is widely accepted practice to utilise a network of 'known adults' to move children from one location to another. Generally a Traveller who is going to a particular area will offer to 'ferry' children to a site, or move them to a mid-way point for collection, or onward delivery to other nomads in the 'chain'. Further advantages of the reciprocal nature of this arrangement include savings on time, (particularly important if a parent would require some days off work to deliver a child), and the redistribution of obligations and favours among members of the network, which in turn assist in strengthening community ties. Some informants also referred to variants on this pattern occurring when a child requires temporary fostering as a result of a parent's ill-health or in times of emergency such as rapid repeat evictions.

Key finding twelve: Travellers recognise children's right to autonomy at a fairly young age, often permitting children and young people to control their own pattern of residence within a 'safe' community framework.

'Block' contact and shared parenting are generally in place by the time a child is two or three, often commencing as soon as a child is weaned from the breast, and building

up to longer time periods over some months or years. By the age of seven or eight a child is usually given considerable autonomy in deciding when they wish to move to the other parent, and moreover will usually participate in the decision making process regarding employment localities, Travelling circuit, etc. As a child develops their own social and cultural capitals, they will in turn devise their own network of contacts, and may in their mid-teens opt to live with another group of Travellers, or with friends' parents at a site some distance from their own immediate family. Mirroring narratives of community childcare, a number of informants reported that their young adult children had left home in this way at a fairly young age, although in all cases it was emphasised that the young person was resident with trusted adults who would 'keep an eye out' for them.

Given that older children are generally presented with their own small trailer-caravan as they become adolescents, leaving home at a young age is unproblematic, as individual accommodation is usually available to the young person (although financial support may be required, and an adult will have to tow the caravan when moving sites). In this way, the essentially low outgoings of a nomadic life are utilised to enable early independence to occur. This point is also of importance in terms of provision of accommodation for separating couples, as 'home ownership' facilitates shared parenting (see below), and both adults will generally have access to their own vehicle to which they can take their children during block contact/residence stays.

Key finding thirteen: community 'policing' of domestic violence and potentially dangerous contact situations, enables children to retain a relationship with a parent in a safe environment, while ensuring that their primary carer is protected from harm and supported in their parenting role.

Domestic Violence statistics among the Traveller sample appear slightly higher than among the general population (BMA, 1998), although little variation is found when figures for violence during pregnancy are examined (DoH, 2000; Mezey & Bewley, 2000). However, community responses to DV vary significantly from findings relating to 'mainstream' behaviour. Figures for the general population indicate that a woman will usually experience something in the region of 35 assaults prior to seeking

external help (Yearnshire, 1997). Within the Traveller population, informants reported far fewer assaults prior to leaving the relationship, usually just one or two incidents. Community assistance is readily available should a woman wish to leave a violent relationship, and this may well be a result of the largely public nature of Traveller life, ensuring that violent attacks are seen and heard. The availability of cheap accommodation (vehicles) for Traveller victims of DV also makes leaving a violent relationship considerably easier and all informants who had reported violence referred to site companions offering to evict a violent partner on their behalf. In three cases this took place, with the woman and her children being removed to a place of safety by other Travellers.

Although expectations exist that on-going child contact will occur even where the relationship has ended as a result of violence, contact will generally be 'policed' by the community to ensure a safe environment for the mother and children. Additionally, given the importance of reputation within the community a man who is perceived of as violent will be considerably disadvantaged in social relationships. Only one informant reported on-going DV during child contact sessions, in stark contrast to the estimated 87% of women in the general population who are exposed to ongoing violence during contact where this has been a feature of the parental relationship in the past.(Hester & Radford, 1996). Thus it is likely that community intervention when coupled with sanctions (see above) may have a significant impact on limiting violent male behaviour.

Overall, therefore, NT 'extra-legal' post-separation parenting patterns would appear to be a product of adherence to a particular set of ideologies, which emphasise non-gendered caring work, commitment to children, and the importance of family bonds. In turn, this ideological framework is supported by community devised checks and balances, aimed at ensuring that parents work in a co-operative manner to raise their children as socialised members of the Traveller community. Where parents are themselves unable to reach an agreement over their children, or an individual's anti-social behaviour threatens the status quo, or breaches socially acceptable behaviours, well-recognised sanctions exist, which will generally suffice to ensure a negotiated agreement. As a final sanction, an individual can be 'exiled' from a site (or the nomadic community), may elect to settle into housing until they have expiated their

‘Traveller inappropriate’ behaviour or, having totally breached the moral contract, may then decide to reject the nomadic community and return to a sedentary lifestyle.

In general, it is only if these processes fail, or are truncated by a crisis, that legal action over children is considered justifiable, and then only after following the set of community validated processes discussed above.

Reflections on the Research

Theoretical implications

Having considered the key findings of this study of New Traveller post-separation parenting arrangements, and in the light of the literature discussed earlier, it is worthwhile reflecting on the precise nature of nomadic attitudes towards kinship, family dispute resolution and responsibility to children. In essence, are NTs similar to mainstream parents in their outlook on relationships, separation, and on-going childcare? Or do they adhere to a distinct set of values and opinion, which can be claimed to be symptomatic of ‘Traveller parenting’? Is Travellers’ avoidance of the law and their unhappiness with legal interactions distinct to members of this cultural community, or are ‘mainstream’ parents as disturbed by legal practices and attitudes, and equally reluctant to seek legal advice? The answers to these questions will enable us to conclude whether Traveller parenting behaviours are a product of the structural constraints and freedoms inherent in their nomadic status, are contingent upon adherence to a particular ‘Traveller’ ideology, or represent a combination of philosophical attitude and pragmatic response to the strictures of high mobility and irregular employment patterns.

We have already ascertained that the role of the ‘closed’ nomadic community is of profound significance in establishing parenting behaviours and expectations of normative conduct. Thus, data on other minority groups’ use of the law, (same-sex and minority ethnic families) is likely to be relevant to understanding Travellers’ concepts of acceptable forms of action when parents are in dispute.

While little literature exists in relation to minority groups interactions with the family law system, that which does, tends to suggest a reluctance to engage with formalised

court procedures, (Anderson, 1997; BASW, 1987) with members of minority groups citing fear of discrimination and cultural misunderstandings as major concerns. On-going research within the Lord Chancellor's Department into 'diversity and court proceedings' further supports this supposition, as minority ethnic informants engaged with both the criminal justice and family court systems tend to consider that lack of cultural awareness and inappropriate use of orders may discriminate against them (LCD presentation, SLSA conference, April 2002). Thus, Travellers' reluctance to engage with legal proceedings may be accounted for in part by their minority status and sense of disempowerment within the formal legal arena, coupled with an ideological reluctance to seek assistance from outside of their community unless no other option exists.

Membership of the Traveller community does not however entirely remove an individual from the influences of mainstream society, and moreover, many New Travellers have grown up in a house, and imbibed cultural attitudes common to their particular society of birth. Thus it is necessary to consider the literature on 'mainstream' unmarried partners (undertaken on the basis that Travellers rarely formally marry) to see if attitudinal similarities exist between sedentary and Traveller cohabitants.

While cohabitation is widely accepted across all strata of British society (Barlow, Duncan, James & Park, 2002) 'mainstream' society does, in the abstract, still seem to consider marriage the ideal relationship (Barlow et. al. 2002; Hibbs, Barton & Beswick; 2001; Smart & Stevens, 2000) in contrast to Travellers who appeared to consider a public acknowledgement of their relationship a very low priority. Of those Travellers who had been married, this relationship had always taken place prior to becoming nomadic, with only a very small number of the sample considering the need to undertake any form of ceremonial commitment once they had become Travellers, in contrast to 'mainstream' cohabiting couples who often go on to marry their partner. Smart & Stevens (2000) identified a continuum of commitment within 'mainstream' cohabiting relationships, ranging from 'casual' to 'committed' partnership. No significant variation exists between their findings and information relating to the Traveller sample, although cohabitation triggered by pregnancy may occur more frequently among the nomadic sample.

A number of researchers, (Smart & Neale, 1999; Bradshaw et. al., 1999; Maclean & Eekelaar, 1997; French et. al., 2001 and Genn, 1999) have tended to find a lower percentage of cohabitants engaging with family law proceedings than married couples, but in part this may be explained by the necessity of undertaking formalised procedures to disengage from a marriage. Smart & Stevens (2000) however, noted that cohabitants tend to consider that legal processes are 'foreign' to their relationship, and thus best avoided on relationship breakdown (2000:41), and this finding relates closely to the statements made by a number of Travellers when referring to their lack of formalised arrangements over children and maintenance, and indeed is supported by Barlow et. al.'s (2002) findings that few cohabitants made provisions regarding the legal consequences of their relationship and childbearing.

While limited research exists on 'mainstream' attitudes towards use of the family law system, a comparison of Genn's (1999) study of legal behaviours and the current research reveals that considerable variations exist between 'mainstream' and Traveller couples' actions at the point of separation. Of particular note is Genn's finding that while cohabitants appear less likely to proceed to court than married couples, overall, disputes over children and family matters triggered legal advice or court intervention in 92% of cases, leading her to conclude that (among her sample of 341 respondents) "the use of traditional court-based solutions to [family] problems and disputes is fundamental" (1999, p117). This finding is in stark contrast to the attitudes of the NT sample, where seeking a purposive sample of Travellers who had sought advice or undertaken legal action still led to only half of those interviewed having taken such steps.

Genn further reported that 61% of her sample (both married and cohabitants) approached a solicitor immediately their relationship broke down, with 40% deciding against discussing separation issues with their former partner prior to seeking legal advice. Moreover, less than half of Genn's sample claimed to have attempted informal negotiations with their former partner when disputes arose, in contrast to the Traveller sample who *all* sought an informal dispute resolution prior to seeking legal advice or commencing court action.

It is noteworthy too, that Travellers who engaged with the legal system almost all sought initial advice from a 'semi-official' source, as in contrast, Genn (1999) found that 61% of her sample approached a solicitor in the first instance, with 27% obtaining information from a CAB or other advice source, and 6% first contacting the police over family related matters (figures <100% as remaining 6% are not broken down). Thus, the issue of *where* Travellers seek advice, once again tends to support the supposition that members of this community are uncomfortable with dealing with non-specialist official sources, preferring to access 'Traveller-aware' agencies where information can be obtained in a supportive environment.

While it has become clear that Travellers are less likely to resort to the law than members of the 'mainstream' population, and before reaching that stage are more likely to attempt informal dispute resolution, where Travellers do proceed to court, no great variation exists in levels of satisfaction between 'mainstream' litigants and nomads. Genn (1999) found that only 50% of informants in family cases claimed to have achieved *all* of their objectives, a figure which would appear to bear comparison with Traveller informants, who were often dissatisfied with the terms of orders made, despite the 'success' of their application in broad terms. However, in terms of confidence in the legal process, clear variations exist between the nomadic population and Genn's sample, wherein 73% of informants claimed to be confident that the outcome would favour them. In contrast, only one Traveller informant expressed clear certainty over the outcome of her case, and proceeded to court without having consulted with a solicitor, as she was convinced that the 'misunderstanding' would be sorted out rapidly and the children (removed from their father by a SSD) would be returned to her care.

Further differences exist between nomad and 'mainstream' samples when asked to consider the quality of legal representation experienced. Only two Traveller informants reported that they were satisfied with their lawyers, in contrast to Genn's findings that 92% of informants considered that they had been represented very well or fairly well. Comparisons between 'mainstream' and Traveller informants' experiences of CWO interactions also demonstrate discrepancies in satisfaction levels, although mainstream studies (French et. al., 2000; Buchanan, et. al., 2001) consistently find that a high percentage of informants report discontent with the

officer's attitudes, and/or reporting procedures. While overall, Buchanan et. al. (2001) found that 56% of parents were unhappy about their interactions with CWOs, and French et. al. (2000) reported 71% of their informants were dissatisfied, eight out nine Travellers reported deep unhappiness over their contacts with these officials, often citing lack of cultural awareness as their main complaint.

Interestingly, (and referring back once again to similarities between Traveller and minority ethnic family patterns and attitudes) Buchanan et. al. (2001) found that 85% of ethnic minority parents were highly critical of the outcome of CWO reports, with 40% of minority parents considering that their ethnicity or culture had counted against them in the reporting stage of proceedings. Travellers however, reported even more strongly that they believed their culture or lifestyle had been regarded in a negative light by these professionals, and informants were more critical of CWOs/Social Workers than any other legal officials encountered.

So it would appear that genuine differences exist between 'mainstream' and nomadic parents in terms of attitude towards use of the law. While Travellers are similar to 'mainstream' cohabitants in their preference for non-legal outcomes, in times of family dispute, sedentary cohabitants are still more likely than nomads to seek legal advice or proceed to court, and in general are willing to take such actions at a fairly early stage of a dispute, rather than persisting with extra-legal negotiations. Thus, it would appear that Traveller values and ideologies do have a direct impact on willingness to engage with the legal system. While both Travellers and 'mainstream' cohabitants report dissatisfaction with the court system and in particular the role of certain legal officers, it is also self-evident that nomadic informants consider legal action more problematic than do 'mainstream' informants. However, the findings that minority ethnic court users display similar levels of unhappiness to nomadic informants, is suggestive of the proposition that the legal system is perceived of as a white middle-class structure, whose officials are lacking in cultural awareness and open-mindedness. Thus it would appear that Traveller reluctance to engage with the law is a combination of a pragmatic response to perceived prejudices, and of a philosophical emphasis on co-operation in parenting matters.

The findings of this research also indicate that variations exist between Traveller and 'mainstream' attitudes to gendered work and parenting. As has been demonstrated, NT males appear generally well-disposed to participating in 'care work' (Smart & Neale, 1999), although whether this attitude is a socially expected role, or an individual response to being around children on a daily basis and "rewriting the parental script" (Smart & Neale, 1999:55) through a growing interest in young people, remains open to debate. However, it is clear that Traveller society has well defined expectations of 'fairness' and equality in behaviour and attitude, and the existence of these core values enables aggrieved partners to apply social pressure to an individual who does not 'pull their weight' with children and domestic chores.

While this research has not examined gender equality in extant relationships, observations indicate that employment tends to be fairly gender neutral with both sexes undertaking festival and agricultural work. In addition, I have observed female mechanics and chainsaw woodworkers and males who undertake light construction work at home, or are childminders, enabling parents to go out to paid employment. Moreover, both sexes display practical skills in keeping a home running, as provision of water and wood are necessary adjuncts to nomadic life, as is the capability to cook over a fire or wood-burner. In addition, the communal nature of wood and water runs ensures that even poorly organised individuals will be included in such expeditions, limiting gendered expectations that another site member will undertake these particular chores.

Thus it appears that Travellers hold few expectations of 'gender appropriate' behaviours, adhere to the principle that all adults on a site with resident children should participate in some form of communal responsibility for their care (even if merely 'watching out' for small children while parents cut wood, etc.) and in general expect all site members to possess the practical skills to live an independent life. However, collective action is expected when undertaking standardised chores such as wood and water runs, and practical assistance will be available if someone is ill or has just given birth etc. Overall, therefore, while Travellers will inevitably create their own household patterns of paid and domestic work, the division of labour appears be based more upon individual skills and notions of 'fairness', than on gender.

Given the above observations, Smart & Neale's (1999) tentative conclusions that successful post-separation shared parenting relates to the quality of the pre-separation parental role (albeit that shifts in parenting identity and degrees of responsibility may have occurred since the relationship breakdown), would appear to hold true for Traveller families. Indeed for NTs, less work appears to be required for women to 'let go' of taking responsibility for children, and for males to learn 'caring roles' than for members of mainstream society, where gendered parenting expectations are often extremely strong. Thus the tendency for Travellers of both genders to retain multiple identities as worker, community member *and* parent, rather than to invest as fully in the role of spouse/parent or employee/provider as an housed, perhaps socially isolated individual, may assist with the transition to shared parenting once a relationship has ended, as individuals will have a lower commitment to one particular role.

Research into 'mainstream' 'never cohabited' parents, (Maclean and Eekelaar, 1997) indicates that contact in these cases seems to take place less often than between former cohabiting parents and their children. Moreover, on-going contact appears to a large extent to be dependent upon the absent father living with his own parents, neither parent having repartnered, and the non-resident parent 'visiting' the child rather than participating in childcare and having staying contact. Clear distinctions therefore exist between 'mainstream' and Traveller parents in this situation, as not only do 'never-cohabited' Traveller parents generally adhere to an expectation of on-going contact/shared care, but also do not appear to draw distinctions between the 'seriousness' of the parental relationship and level of commitment to the child.

While 'never cohabited' parents by definition do not need to redefine their daily parenting roles once a relationship ends, we can see that for 'mainstream never-cohabited' fathers, in general, the existence of a child appears to bring about little change to their lives, as narratives tend to indicate the peripheral nature of both the adult couple, and the parent/child relationship. Thus, Smart & Neale's (1999) theory of post-separation parenting depending upon the quality of the adult relationship during the extant relationship, would appear once again to be borne out for 'mainstream' parents who have never cohabited. In contrast, among the Traveller sample, the quality or duration of the parental relationship appears to have little impact on social expectations of responsible parenting, as the relationship between the

adults is regarded as of lower importance than the fact that a child exists. Thus conception and social recognition of parenthood, places a moral responsibility upon *both* adults which subsists for the duration of the child's dependent years, regardless of whether either party has re-partnered, planned for pregnancy to occur, or actively wishes to avoid the other parent.

As such, it can be seen that parenthood creates a network of social expectations and responsibilities, regardless of the circumstances of conception. In this way, Travellers follow a pragmatic modern version of the moral code which in the past led to 'shotgun weddings', albeit with duties towards children replacing the expectation that marriage and responsibility for spousal maintenance will occur if a short-term 'casual' or 'contingent' relationship leads to pregnancy.

So, what structural constraints and freedoms enable nomadic parents to move beyond the issues identified in 'mainstream' literature as likely to ensure on-going social parenting? We have demonstrated that gender-neutral attitudes towards childcare mean that males appear more likely to participate in 'care work', and moreover have less ideological resistance to taking on responsibility for children post-separation. The prevalence of male 'carers' further presents fathers with support networks and role models when coming to terms with their status as a parent with responsibility for a child in their care. Given that Travellers expect both sexes to demonstrate domestic skills, it is also likely that new partners will not expect to mediate a father's relationship with his child, and that as such the biological parent will be involved with cooking, play and other activities when the child is resident, thus strengthening the paternal-child bond.

Ideological expectations therefore shape practical responses to cross-household parenting. In addition, Smart & Neale (1999) note that fathers in their study who were either self-employed (and hence have some degree of flexibility over working hours) or who have been in broadly 'working class' (often poorly paid and monotonous) occupations prior to redundancy, were most willing to build a new identity as a 'carer', and move from detached father to shared parenting or primary carer role. From this they conclude that male employment patterns impact on identity and behaviour as a caring parent. Travellers, as noted above follow flexible

employment patterns and do not place a higher premium on male employment. Thus in the Traveller context we can conclude that expectations of gender equality in employment terms will further predispose men to shared parenting. In addition, the fact that nomadic employment often involves short bursts of intensive work (e.g bulb and fruit picking) means that separated families can arrange their periods of block care in a manner which benefits both parents, and maximises their employment and leisure opportunities. Where a child is resident with a parent who is in employment, the presence of a community support network enables an adult to access childcare assistance on a reciprocal basis, further reducing the tension between employment/care responsibilities, (Webster & Millar, 2001) and moreover, ensuring that a parent is not subject to social isolation and sole responsibility on return from work.

Other elements of the nomadic lifestyle which support shared parenting are the fact that separated parents have access to their own accommodation and are thus not subject to structural constraints such as lack of space, or regulations on numbers of visitors when they wish to bring their children home; and the fact that the flexible nature of employment and typical education patterns means that shared parenting does not require parents to remain in the same immediate locality. Smart and Neale (1999) report that they came to consider that shared parenting involved such a continuation of the pre-separation adult relationship (regardless of how well the couple actually got on) that the price to be paid for this form of residential arrangement was 'putting a life on hold' and remaining "locked into a system in which they had to take the lives of their former partners into account, not only in pursuing their parenting, but also in pursuing their other life interests or commitments" (1999, p58). In contrast, Travellers version of shared parenting, carried out in long blocks of contact, (rather than mid-week or weekend transfers) enables former partners to live at vastly different locations, and if necessary, limit communication to arrangements for transfer of children, payment of child-benefit and handover of educational materials. Thus the requirement to retain two intertwined families, with resultant strains on new partnerships is significantly reduced, enabling cooperation over children to occur without impacting negatively on individual's daily life. Where partners do remain on good terms however, it is also possible for them to parent more closely, on occasion living on the same site with their reconstituted families, and sharing care on a daily

basis. Thus, the practicalities of nomadic life, coupled with a philosophical commitment to on-going family responsibilities and social pressures to conform to a particular model of care, combine to create a situation which militates for shared parenting; in contrast to the situation faced by 'mainstream' parents whose conflicting expectations and roles often places undue pressure on the post-separation relationship, with predictable risks of parenting disputes.

Policy implications

The findings from this research imply that Travellers are in many ways model parents in Children Act terms, meeting the challenges of post-separation parenting, and working in a cooperative manner, only resorting to the law in cases of deep conflict.

Nevertheless, as we have shown, where Traveller parents do engage with the legal system, there is a considerable risk of cultural misunderstandings and the making of unworkable court orders. Thus on the macro level, there is a need for a reconsideration of the ways in which the infinitely flexible Children Act can be used to best effect; as a real risk exists that minority groups will move further away from the legal system, as their sense of disempowerment and unhappiness grows (see LCD, 2002). The obverse of this picture of minority dispossession however, is the likelihood that the use of alternative dispute resolution techniques will increase among individuals who consider that the formal legal system is inappropriate for their needs, a trend which can potentially lead to more dialogue between separating parents.

But the question also arises, of the ways in which the above research findings can be used to *support* 'mainstream' post-separation parenting arrangements. While it is clear that the strength of the Traveller community, and adherence to a common system of parenting norms lies at the heart of NT parenting arrangements, it is likely to prove impossible to replicate this level of social cohesion in the wider sedentary population. As discussed above, 'mainstream' social opinions tend to consider personal relationships as hierarchical, with marriage equated with a higher level of commitment than cohabitation, and never cohabiting parents seen as lacking in commitment to each other and their children. Maclean & Eekelaar (1997) posit the theory that the stronger the social parenting relationship, the more likely that post-separation relationships with children will endure, and indeed, separated parents *are*

most likely to remain in contact with, and provide financial and practical support for their children, if the offspring had been born during a marriage. Thus, in order to increase 'mainstream' parental involvement it may be necessary to strengthen popular attitudes towards the concept of commitment to a child, rather than focussing upon the nature of the parenting relationship, and degree of adult attachment. In other words, policy drives need to draw upon Beck and Beck-Gernsheim's (1995) theory of personal relationships becoming more child oriented, and use this theoretical base to encourage life-long commitment to offspring where an intimate relationship ends, or is non-existent.

Current policy initiatives (such as considerations of automatic parental responsibility for unmarried fathers who jointly register a birth – LCD, 1998) are indeed working towards this result, but it is also clear that *practical* changes are required to enable effective co-parenting.

While initiatives aimed at ensuring greater paternal involvement attract widespread theoretical support, the findings from the current research indicate that shared parenting is most effective where flexible employment patterns exist, adequate accommodation is available to enable both parent to care for their child effectively, and most importantly, community validation and support exists for male carers; displacing expectations of fathers as breadwinners and mothers as primarily responsible for children, regardless of their employment status.

While gender-neutral notions of childcare may well take some time to achieve popular acceptance, the shift towards parental leave and family tax credits endorsed by the current Government must be applauded as creating a framework for supporting new families, and reducing financial stresses on households. However, on parental separation, traditional gendered roles tend to come to the fore, with judicial interpretations of the Children Act firmly re-establishing the concept of maternal care, paternal financial responsibility and 'weekend dads' who provide treats and outings, rather than consistent, high-quality parental care.

While it is possible for both separated parents to elect to work on a part-time basis, and move the child between households, in the current economic climate, where

pressures on social housing exist, such arrangements are to a large extent the prerogative of the comfortably off, with some degree of control over their employment patterns. In addition, given the prevalence of rigid educational models, unless separated parents remain in close geographical proximity to each other, a child is unable to move between households easily, as they are confined by the requirement to remain at one educational establishment. Thus even parents who wish to share care, are militated against by the formal structures of the state.

While it is clear that many separated parents are content to retain the status quo in terms of gendered behaviours, and that policy drives aimed at increased paternal involvement may take many years to come to fruition; if a real political will exists to maximise post separation parenting opportunities, particular issues need to be addressed by the state.

Firstly, judicial attitudes would appear to be at odds with the ethos of the Children Act which emphasises co-operative on-going parenting. While it is clear that parents may use the Act in manipulative ways, and attempt to control or undermine the other parent, the inquisitorial nature of family law proceedings should be able to identify 'meritless applications' and ensure that orders are not treated as a tool in an adult dispute. Where clear evidence exists that both parties are caring concerned parents, then the courts should acknowledge this, rather than automatically making standard contact/residence orders which supports the ideology of 'weekend dads' with mothers as responsible for daily care.

Where individuals are in possession of a court order demonstrating that shared care has been officially recognised, local authority departments and housing associations should actively seek to provide an applicant with accommodation which is suitable for a family, rather than a single adult. By bringing children home to cramped housing, the message is presented that children do not in actuality live with both parents. In addition, the quality of the parental/child relationship may well suffer through the inability to create a personal space for the child where they can relax, undertake homework, etc. when resident with that parent.

Courts should also consider making orders in terms which allow a parent to live with a child for several months at a time, allowing each adult to care for the child in long enough time blocks that a close personal relationship is developed, which in turn will strengthen the parental bond. Given that research (Bradshaw et. al., 1999; Maclean & Eekelaar, 1997) demonstrates that continuity of contact is linked to the age of a child at time of parental separation, (and presumably degree of parental-child bonding which has developed over time) clear imperatives exist for re-establishing daily parental care routines where this can take place safely.

In the same manner, if shared care orders of this type are normalised, fathers will, over time, come to accept that post-separation caring responsibilities are part of the package of parenthood, and that they will have to practice flexible employment patterns or juggle childcare during times of child residence, in a way which is familiar to lone mothers.

Inevitably, such radical policy initiatives will have implications for employment patterns, but with the introduction of family tax credits to a wider swathe of the population, and the increased tendency for 'flexible contracts' it is not impossible for parents (in partnership with their workplace) to plan their employment schedule some months in advance. Thus, by utilising flexitime arrangements, annual leave entitlements and job-share schemes, separated parents could simplify their childcare arrangements while developing an ethos of gender-neutral parenting.

Where shared parenting exists at present, it generally takes the form of a child moving between parents for week blocks, or alternating between parents for three and four days at a time (Smart & Neale, 1999). However, such arrangements inevitably tie parents to living in the same locality, and moreover create an enforced intimacy between former partners, which (as discussed above) can cause emotional distress and limit life opportunities. While partial-week arrangements may prove popular with children, perhaps because they ensure close, regular contact with both parents, it is clear that adults may prefer alternative arrangements.

As such, if infrastructural supports for shared parenting were in place, such as the ability to easily transfer a child between schools for several months at a time (perhaps

through the family holding educational records on attainment of Key Stages), guaranteed tax and child benefit transfers between parents during 'caring periods', state-endorsed flexible employment contracts, access to suitable accommodation, and policy drives aimed at the judiciary and members of the public which 'normalise' paternal childcare, then a very real opportunity exists to alter the face of modern post-separation parenting. Thus, by allowing 'mainstream' couples access to the model devised by nomadic parents, it follows that the 'new orthodoxy' of parenting (Maclean & Eekelaar, 1997) may be shattered, allowing individuals' to maximise their life-chances by stepping beyond the narrow boundaries of gender roles and learning to 'care' in a co-operative manner.

Towards an understanding of Travellers?

While this study has considered Travellers' response towards use of the law in family disputes, it has added more than data on family attitudes to the body of research on this minority group. From the ethnographic and theoretical findings it is possible to conclude that despite NTs reputation as immoral, selfish parasites (Murdoch, 1994; McVeigh, 1997) a clear, reciprocal 'moral contract' exists between members of this community, similar in form to the self-policing kin-networks identified among Traditional Gypsies and Travellers (Okely, 1983; Sutherland, 1987).

While Travellers operate within a framework of tolerance, (in particular with regard to serial personal relationships, same-sex partnerships, previous criminal convictions and substance use) the ideological constructs of this community demonstrate that morality is of focal importance to nomadic society. While Traveller 'morality' may vary in some ways from 'mainstream' views, popular opinion across all strata of society is far more tolerant towards cohabitation, 'alternative' sexualities and lone parenthood than in the past; so the belief that among Travellers 'anything goes' (see Hennick, Cooper & Diamond, 1993) is to a large extent superseded by shifts in 'mainstream' notions of acceptable family structures, to the extent that it can perhaps be claimed that Travellers have simply been a step ahead of sedentary society in their willingness to tolerate non-normative families *as long as they adhere to the moral code*.

For within this tolerant, co-operative society, set codes of behaviour exist, with, as has been demonstrated, harsh social penalties for breach of acceptable conduct. Thus,

morality within the NT context focuses less on sexual behaviour than on retention of dignity, and treating an individual in a humanitarian way. As long as parties to a relationship are content with their personal arrangements (however complex it might appear), then community interference will not take place as long as responsibilities are met (particularly to children), personal safety and emotional honesty prevail, and nobody is being treated in a violent or demeaning manner. In such a way, the (often unspoken) moral code 'polices' Travellers in their daily lives and further, ensures that the community can function effectively without resorting to outside assistance, or attracting potentially unwelcome notice from 'professional' agencies.

While clearly disputes can and do erupt within the nomadic community, and on occasion can fester into the painful court disputes discussed within this thesis, in many ways the Traveller moral code offer a model for 'mainstream' society, not only in terms of non-gendered parenting behaviours, but also by demonstrating tolerance of individual foibles and a talent for reconciliation which permits disputes to blend into the daily pattern of life prior to being dismissed as mere forgivable errors. Perhaps in some way therefore, members of this community have unconsciously absorbed the wisdom of the Sixteenth Century philosopher Francis Quarles, whose words would still profit many.....

"use law and physic only in cases of necessity; they that use them otherwise abuse themselves into weak bodies and light purses. They are good remedies, bad recreations, but ruinous habits"

A footnote on future research: In some ways the current research has raised as many questions as it has provided answers, commanding consideration of linked topics for future investigation. Most pertinently perhaps, (given that the Traveller community is a relatively new social movement, developing family practices and ideological constructs as a reaction to a rapidly changing world), attitudes and behaviours of young (always nomadic) Travellers may prove a mine of information on how effective NT parenting behaviours are in practice.

Ultimately, an examination into the meaning and nature of community and identity for young Travellers will enable an assessment to be made as to the long-term effects of growing up in an essentially gender-neutral ethically homogenous environment. By tracking the social and ethical experimentation of Traveller parents, it will prove possible to answer the following questions: Are young nomads, over time, likely to replicate the family practices they have grown up with? Or will they seek to settle into sedentary occupations and lifestyles? If so, how successful will they be at making this transfer, or, like Traditional Travellers, will such a transition prove culturally and psychologically difficult? Will young Travellers form more stable personal relationships than their parents, or less? Similarly, how will networks of related nomadic families expand or contract over the years? Will greater levels of intermarriage and cultural exchange take place between NTs and traditional Travellers and Gypsies, or will the communities keep their distinct identities? And finally, how successful will New Traveller support networks and new forms of family prove to be, as formerly sedentary individuals age and come to face death. Ultimately will these nomads return to their houses as predicted many years ago? Only time will tell.....

APPENDICES

APPENDIX 1
Interviewee Letters and Advertisements

- a) CWO letter/questionnaire (version one)
- b) Solicitor letter/questionnaire (version one)
- c) Example of advertisements distributed around sites and placed with journals/email lists, etc.

Appendix 1a) CWO letter/questionnaire

Margaret Greenfields

Room 4.34 Block 3 East,

email: hspmjg@bath.ac.uk

telephone: 01761 435983 (h)

07788545777 (mobile)

14/2/00

Dear Sir/Madam,

Re: Research into the Impact of Section 8 Children Act Applications on New Traveller Families

I was passed your name and contact address by Mr M Rouse, of the Association of Family Court Welfare Officers, who suggested that I contact your office to see if any CWOs would be willing to participate in research into the above matter. I understand that Mr Rouse has already made preliminary enquiries in some locations in the hopes that individual officers could be persuaded to assist in this research, which it is hoped will be of use in informing CWO practice when dealing with this relatively unresearched group. Unfortunately, to date the sample response has been low, so I therefore writing directly to each office in the Areas selected for study.

I am a PhD student at the University of Bath, presently undertaking Economic and Social Research Council (ESRC) funded research into New Travellers and legal aspects of social exclusion. The main question around which this research project is based, is as follows: **are Traveller families disproportionately affected by contact and residence proceedings by virtue of the potential impact on *all* aspects of their way of life?** In particular, I wish to examine the impact on lifestyle of repeated hearings, cost of travel to court, finding a site in an area in which a case is to be heard, CWO investigations, problems over remaining in contact with solicitors etc., if inadequate postal or telephone services are available, and the potential for overt or unrecognised discrimination within the legal system where disputes occur between New Traveller and 'settled' parents or grandparents.

One stage of the research will involve interviewing a small number of 'professionals' eg. both solicitors and Court Welfare Officers from each of the three regions selected for examination within this project. I intend to undertake tape recorded interviews, during which, by the use of vignettes, it is hoped that a profile of potential issues and practices relating to New Traveller cases can be built up for subsequent analysis.

I am therefore writing to you as a Court Welfare Officer, to ask if you would be willing to participate in this research, by assisting me in the following way. Given that the majority of FCWOs will not have had clients presenting with cases of this type,

we are contacting all offices within the sample areas to ask if the following short questionnaire could be completed and returned in the SAE provided.

We are hoping to undertake 'professional' interviews over the latter part of this year, but it would prove helpful if officers willing to participate could contact me at the above address as soon as possible, in order that I can work out an interview schedule which minimises travelling and analysis time.

The professional interviews will involve the use of three separate vignettes relating to New Travellers and s8 disputes e.g. contact between Traveller parent and children where the settled parent objects to lifestyle; two Travellers in dispute over residence where one party is prepared to enter into a house if necessary to "keep the children" and alleges drug use by the other party; and the situation of a never resident, now married, settled, father whose child's mother wishes to go 'on the road' with her new boyfriend and the child of the first relationship. Given that there are three vignettes, we envisage that each interview would take in the region of two hours. Each interview will be tape-recorded, and when transcribed and written up, the interviewee will be anonymised and the area of the country from which they come, described as "The North" or "Region A" (for example) when discussing possible regional variations in CWO/court practice.

A (very) token payment of £10 will be made in recognition of the time given by the Officer in participating in this research, and a summary of the findings will be sent to the interviewee when it is finally written up. A full copy of the PhD thesis will ultimately be deposited with the AFCWO for reference purposes (completion date expected as 12/2001).

In anticipation of your assistance in this matter, thank you for sparing the time to fill out the enclosed questionnaire.

Please do not hesitate to contact me at the above address should you require further information on the research.

Yours sincerely,

Margaret Greenfields

RESEARCH INTO THE IMPACT OF SECTION 8 CHILDREN ACT APPLICATIONS ON NEW TRAVELLER FAMILIES

Name of CWO:

Name/Address/contact details of FCW Office:

- 1) Have you at any time dealt with family law cases concerning New Traveller clients (either housed or settled) whether or not the case was ultimately settled out of court?**
- 2) Do you currently have any ongoing cases involving NT clients and Children Act proceedings?**
- 3) Approximately how many New Traveller family cases have you dealt with since the implementation of the Act?**
- 4) Would you be willing to participate in this research by undertaking an anonymised tape-recorded interview where issues around Travelling/CWO practice & procedure, are explored by the use of vignettes?**

Appendix 1b) Solicitors' letter/questionnaire

Margaret Greenfields

Room 4.34 Block 3 East,

email: hspmjg@bath.ac.uk

Dear Sir/Madam,

Re: Research into the Impact of Section 8 Children Act Applications on New Traveller Families

I am a PhD student at the University of Bath, presently undertaking Economic and Social Research Council (ESRC) funded research into the above subject. The main question around which this research project is based, is as follows:

are Traveller families disproportionately affected by contact and residence proceedings by virtue of the potential impact on *all* aspects of their way of life?

In particular, I wish to examine the impact on lifestyle of repeated hearings: eg. cost of travel to court, finding a site in an area in which a case is to be heard, CWO investigations, problems over remaining in contact with solicitors if inadequate postal or telephone services are available, and the potential for overt or unrecognised discrimination within the legal system where disputes occur between New Traveller and 'settled' parents or grandparents.

One stage of the research will involve interviewing a small number of 'professionals' eg. both solicitors and Court Welfare Officers from each of the three regions selected for examination within this project. I would hope to undertake an anonymised tape recorded interview lasting approximately 1 - one and a half hours with each professional, during which, by the use of vignettes, it is hoped that a profile of potential issues and practices relating to such cases can be built up for subsequent analysis.

I am therefore writing to you as a solicitor who is registered with the Traveller Law Reform Unit (TLRU) as specialising in Traveller cases, to ask if you would be willing to participate in this research, by assisting me in the following way. Given that the majority of solicitors on TLRU's contact list will not have had clients presenting with cases of this type, I am writing to all legal personnel within the sample areas to ask if they would complete the following short questionnaire and return it in the SAE provided.

In anticipation of your assistance in this matter, thank you for sparing the time to fill out the enclosed questionnaire.

Please do not hesitate to contact me at the above address should you require further information on my research.

Yours sincerely,

Margaret Greenfields

RESEARCH INTO THE IMPACT OF SECTION 8 CHILDREN ACT APPLICATIONS ON NEW TRAVELLER FAMILIES

Name of solicitor:

Name/Address/contact details of Practice:

- 1) Have you at any time dealt with enquiries from New Traveller clients relating to family law issues (whether or not the case proceeded to court)?**
- 2) Do you currently have any NT clients involved in ongoing Children Act proceedings?**
- 3) Approximately how many Traveller family law cases/enquiries have you dealt with since the implementation of the Act?**
- 4) Would you be willing to participate in this research by undertaking a tape-recorded interview where issues around Travelling/family law are explored by the use of vignettes?**

Appendix 1c) Traveller Advertisements

Email list/journal/magazine advertisement

Academic Researcher at University of Bath wants to interview New Travellers in disputes with settled relatives over where/how children live, and to discuss contact/residence arrangements with separated parents (whether travelling or settled).

Anonymity guaranteed. I preferably want to talk to people in the West Country, Herefordshire, and Yorkshire/Lancashire. I would particularly like to follow any cases which might go to court, or are settled before court, with a view to changing the way Solicitors, Courts and Social Workers think about Travelling Children. Will anyone who contacted me in the past, please get in touch again as my address book has been lost/stolen.

Please contact: MARGARET GREENFIELDS on 01761 435983 (home) or 07788545777 (mobile).

‘Flyer’ distributed around sites/festivals, etc.

RESEARCH INTO TRAVELLING AND SEPARATED FAMILIES

Academic Researcher at University of Bath would like to interview New Travellers to discuss contact/residence arrangements with separated parents (whether travelling or settled) and look at the ways in which people negotiate ways of keeping in contact with their children when parents’ relationships end, and the impact of separated parenting on Travelling life.

The sort of people we want to talk to, and things we want to talk about, are:

LONE PARENTS

Did you come off the road when you became a lone parent? Was this because of practical problems or because your ex-partner objected to you Travelling with children? Did you start to Travel with your children when you were on your own? Did your ex-partner or other family members put pressure on you to settle with the children? Did the law or social workers become involved (divorce, residence of children)? Or the Child Support Agency? If you are Settled, would you still like to Travel if it was possible?

NON-RESIDENT PARENTS

Have you ever had problems with keeping in touch with children who don't live with you? Has Travelling had an impact on how and where you can see your children? Or on your ex-partner's attitude to your contact with them? Have you come off the road to make it easier to see your kids? Or do you take them Travelling with you sometimes? Did you talk to a lawyer about getting contact with your children? Could you get Legal Aid for Family Law advice?

ALL INTERVIEWEES

Most people negotiate their own arrangements for seeing their children or deciding where they should live. Did you do that (with the help of friends and family or between yourselves)? Does the arrangement work? Or did you have to go to law? If so, how did lawyers and social workers behave towards you? Do they understand the Travelling life? Did you feel that they were prejudiced towards you, or did you avoid the courts? If so, why? Did you ever seek legal advice and then decide to drop the case or settle it between yourselves? Do you co-parent, and how does this work in practice? Are you, your ex and any new partners in an extended family who share care of the children?

Whatever your story about post-separation parenting patterns, it is of interest, and I would like to hear it.

Interviews are tape-recorded for later analysis. Anonymity guaranteed.

I preferably want to talk to people in the West Country, Herefordshire, and Yorkshire/Lancashire. I would particularly like to follow any cases which might go to court, or are settled before court, with a view to changing the way Solicitors, Courts and Social Workers think about Travelling Children. Will anyone who contacted me in the past, please get in touch again as my address book has been lost/stolen.

Please contact: MARGARET GREENFIELDS on 01761 435983 (home) or 07788545777 (mobile).

Have ambulance, can travel....

APPENDIX 2
Interview Topic Guide (Travellers)

TOPIC GUIDE
(MAIN INTERVIEW SCHEDULE – TRAVELLER ADULT)

NAME/ PSEUDONYM/CODE

Gender

Housed: Y/N

Age

Relationship Status (Family members)

Number & Age of Children

Length of Time Travelling prior to change of circumstances/commencement of proceedings

Nature of relationship with other party: (whether married or not; length of cohabitation where this occurred)

History of relationship/separation

**PARTIES WITH RESIDENT BIRTH CHILDREN
SUBJECT TO DISPUTE (Lone Parents & Repartnered
Lone Parents)**

How this came about (how decision taken as to whom should keep children)

check: whether children ever lived with both parties, or with other party e.g. shared parenting, change of residence etc.

WHERE INTERVIEWEE HAS ‘SETTLED’ SINCE LONE PARENTHOOD:

Was the decision to go into a house related to the separation/arrangements for children?

Was this a result of practical problems associated with being a lone parent Traveller?

OR due to conflict over the children, threat of legal action, pressures from settled relatives, etc.?

Does the interviewee still travel seasonally? Would they have wished to remain a) fully nomadic or b) seasonally nomadic if possible?

What circumstances would lead them to returning to Travelling?

Are they still in contact with the Travelling community? Do they wish to be?

Is the other parent a) still Travelling or b) settled?

Extent of contact with other parent and whether arrangements over children have been kept to. Problems relating to contact where one or other party Travels (Probe)

Children's perceived views on arrangements.

REPARTNERED LONE PARENTS

Changes since repartnering: any problems over contact between children and ex? Any attitudinal change from ex? More/less contact between respondent/ex or child/ex? Any relationship pressures caused by ex-partner mode of contact?

Is new partner Traveller or have they Travelled? If not, are they aware of/sympathetic to culture?

Any children from subsequent relationships? How has this altered the dynamics of contact/residence etc. New partner has any children? Are these resident, or does contact occur? check: do contact arrangements coincide to allow 'free time' for adults?

How does 'extended' family get on (including ex-partners/step-siblings etc.)?

ALL 'RESIDENT' PARENTS

CSA Contact? If so, has this exacerbated any problems? How CSA issues resolved? Has CSA contact led to enforced or voluntary contact where this did not occur before?

Work (and how fit with kids)? Pressure from BA/DSS?

WHERE NEGOTIATIONS OVER CHILDREN UNDERTAKEN WITHOUT RECOURSE TO LAW:

Were arrangements made purely between parents or with assistance of others - if so, settled relatives, other travellers ('family of choice'/new/previous partners etc.)

How arrangements have worked to date - amicably/areas of dispute etc. Has other party kept to the arrangements/extent of contact with other party/has residence been changed at any point, etc.

How contact occurs: site, house, child travels sometimes, etc.?? Duration of contact e.g time blocks, weekly, as possible.

Who facilitates contact? parents, grandparents, other relatives, friends, etc.

Travelling & Facilitation of Contact: any problems over contact e.g remaining in particular location to facilitate contact? Do evictions/seasonal work cause problems, what arrangements occur to mitigate this?

Has lone parent commenced Travelling since lone parenthood/repartnering? Why? If so, how do children find this? Any problems from settled relatives? Ex-partner etc.?

Has respondent considered settling since lone parenthood/repartnering? Why? What enabled/made them stay on road?

Children perceived views over contact/residence arrangements

LEGAL ISSUES

Was legal advice taken at any point? If so, why? Was legal aid available for the consultation? Any problems in obtaining legal aid?

What was the outcome of this advice? Was the party satisfied with the advice given?

If no legal advice sought, why?

Any other 'professional' advice sought? (e.g. social workers, etc.)

What attitude would interviewee expect to encounter from legal officials if they became involved in any Children Act dispute?

What circumstances would lead the interviewee to take legal advice/go to court?

WHERE LEGAL PROCEEDINGS HAVE BEEN CONTEMPLATED/COMMENCED AND ENDED

Did interviewee take legal advice? Who from? How did they hear about the particular source of advice sought?

Did the interviewee initiate the legal proceedings/advice process? Or react to the other party's legal action?

Was such advice sought/proceedings taken as a result of contact/residence dispute over the children? What is the history of the dispute?

What type of advice was received? Did the advice received lead to a decision to negotiate/drop proceedings? Was a second opinion sought? How far did the legal process proceed?

(WHERE NOMADIC) How long remained in particular area, (stability of site, employment status from site) and is this related to proceedings? Problems over eviction etc.? Did this have any impact on the advice given?

Did the interviewee receive legal aid or pay for legal services themselves/with help from relatives?

Did expense of legal proceedings lead to dropping of case?

Has the legal advice led to any change of circumstances? e.g Settlement into house? Change of residence of children? Alteration of Travelling patterns?

Any other 'professional' involvement? e.g. court mediation (ordered or encouraged), CWO, Social Worker, etc. FAO made?

IF SO: Informant's experience of 'professionals'. Satisfaction? Areas of concern?

What attitude did the interviewee expect to encounter from legal officials when they became involved in any Children Act dispute? Was this borne out in practice?

What does interviewee think would have happened if proceeded to court? e.g perceptions of legal bias, interference, fair hearing etc.?

What circumstances would lead the interviewee to take legal advice again/proceed with court case?

What advice would interviewee give Traveller in same circumstances re: going to court/seeking legal advice?

CASE PROCEEDING/ED TO FULL TRIAL

Did the interviewee initiate the legal proceedings/advice process? Or react to the other party's legal action? WHY? What is the history of the dispute?

Did (respondent) interviewee take legal advice? WHY? Who from? How did they hear about the particular source of advice sought?

What type of advice was received? Was a second opinion sought? Satisfaction with advice? (Perceptions of discrimination??)

Did the interviewee receive legal aid or pay for legal services themselves/with help from relatives?

(WHERE NOMADIC) How long remained in particular area, (stability of site, employment status from site) and is this related to proceedings? Problems over eviction etc.? Did this have any impact on the advice given?

What attitude did the interviewee expect to encounter from legal officials when they became involved in any Children Act dispute? Was this borne out in practice? (cultural awareness, extended families, attitude to schooling, etc.)

(WHERE NOMADIC) Are legal officials aware of Travelling culture, and problems associated with eviction/postal access etc.

Has the legal advice led to any change of circumstances? e.g Settlement into house?
Change of residence of children? Alteration of Travelling patterns?

Other 'professional' involvement? e.g. court mediation (ordered or encouraged),
CWO, Social Worker, etc. FAO made?

IF SO: Informant's experience of 'professionals'. Satisfaction? Areas of concern?
(check: cultural awareness)

*(WHERE NOMADIC) Are professionals aware of Travelling culture, and problems
associated with eviction/postal access etc., cultural awareness, extended families,
attitude to schooling, etc. EXPERIENCE OF SW/CWO INTERVIEWS +
PERCEPTION OF FAIRNESS OF REPORT, ATTITUDES TO SITES, ETC.*

Interviewee perceptions of court PRE-CASE? e.g concerns over legal bias,
interference in lifestyle re: CWO reports, prospects of fair hearing etc.?

ACTUAL Court Experience: (where this has occurred) (cultural awareness,
discrimination, problems over timing of cases, evictions, etc.???)

ON-GOING CASE: Has interviewee considered dropping the case? Why? Projected
outcome.

ACTUAL OUTCOME: (change of circumstances, interviewee satisfaction, etc.)

Perceptions of children's attitude to case/satisfaction.

How arrangements working. Problems?

Decrease/increase in hostility between partners etc.? Impact on other family
members?

FUTURE? Consider sticking to arrangements, returning to court, moving? Travelling
or Settling to facilitate arrangements or break with arrangements.

What would lead the interviewee to take legal advice again/proceed with court case in
same circumstances?

What advice would interviewee give Traveller in same circumstances re: going to
court?

NON RESIDENT PARENT OF CHILDREN SUBJECT TO DISPUTE

How this came about (how decision taken as to whom should keep children)

check: whether children ever lived with both parties, or with other party e.g. shared
parenting, change of residence etc.

WHERE INTERVIEWEE HAS 'SETTLED' SINCE SEPARATION/DISPUTE

Was the decision to go into a house related to the separation/residence/contact arrangements with children? In what way?

Conflictual, or negotiated decision to enter house to facilitate contact etc.

(Where conflictual:) was this due to threat of lack of contact, pressures from settled relatives, etc.?

Does the interviewee still travel seasonally?

Would they have wished to remain a) fully nomadic or b) seasonally nomadic if possible?

What circumstances would lead them to returning to travelling?

Are they still in contact with the Travelling community? Do they wish to be?

Is the other parent a) still Travelling or b) settled?

Extent of contact with other parent and whether arrangements over children have been kept to. Problems relating to contact where one or other party Travels (Probe)

Children's perceived views on arrangements.

ALL NON-RESIDENT PARENTS

CSA Contact? If so, has this exacerbated any problems? How CSA issues resolved? Has CSA pressures led to change in contact frequency + quality?

Work (and how fit with kids)? Pressure from BA/DSS?

REPARTNERED NON-RESIDENT PARENTS

Changes since repartnering: any problems over contact with children and ex? Any attitudinal change from ex? More/less contact between respondent/ex or child/ex? Any relationship pressures caused by ex-partner/children and contact?

Is new partner Traveller or have they Travelled? If not, are they aware of/sympathetic to culture?

Any children from subsequent relationships? How has this altered the dynamics of contact/residence etc. New partner has any children? Are these resident, or not? If not, does contact occur between new partner and children? check: do contact arrangements coincide to allow 'free time' for adults?

How does 'extended' family get on (including ex-partners/step-siblings etc.)?

***WHERE NEGOTIATIONS OVER CHILDREN UNDERTAKEN WITHOUT
RECOURSE TO LAW:***

Were arrangements made purely between parents or with assistance of others - if so, settled relatives, other travellers ('family of choice'/new/previous partners etc.)

How arrangements have worked to date - amicably/areas of dispute etc. Has other party kept to the arrangements/extent of contact with other party/has residence been changed at any point, etc.

How contact occurs: site, house, child travels sometimes, etc.?? Duration of contact e.g time blocks, weekly, as possible.

Who facilitates contact? parents, grandparents, other relatives, friends, etc.

Travelling & Facilitation of Contact: any problems over contact e.g remaining in particular location to facilitate contact? Do evictions/seasonal work cause problems, what arrangements occur to mitigate this?

Has non-resident parent (re)commenced Travelling since separation (or repartnering)? Why? If so, how do non-resident children find this? Any problems from settled relatives? Ex-partner etc.?

Has respondent considered settling since separation (or repartnering)? Why? What enabled/made them stay on/return to road?

LEGAL ISSUES

Was legal advice on children taken at any point? If so, why? Was legal aid available for the consultation? Any problems in obtaining legal aid?

What was the outcome of this advice? Satisfaction with the advice given?

If no legal advice sought, why?

Any other 'professional' advice sought? (e.g. social workers, etc.)

What attitude would interviewee expect to encounter from legal officials if they became involved in any Children Act dispute?

What circumstances would lead the interviewee to take legal advice/go to court?

**WHERE LEGAL PROCEEDINGS HAVE BEEN
CONTEMPLATED/COMMENCED AND ENDED**

Did interviewee take legal advice? Who from? How did they hear about the particular source of advice sought?

Did the interviewee initiate the legal proceedings/advice process? Or react to the other party's legal action?

Was such advice sought/proceedings taken as a result of contact/residence dispute over the children? What is the history of the dispute?

What type of advice was received? Did the advice received lead to a decision to negotiate/drop proceedings? Was a second opinion sought? How far did the legal process proceed?

(WHERE NOMADIC) How long remained in particular area, (stability of site, employment status from site) and is this related to proceedings? Problems over eviction etc.? Did this have any impact on the advice given?

Did the interviewee receive legal aid or pay for legal services themselves/with help from relatives?

Did expense of legal proceedings lead to dropping of case?

Has the legal advice led to any change of circumstances? e.g Settlement into house? Change of residence of children? Alteration of Travelling patterns?

Any other 'professional' involvement? e.g. court mediation (ordered or encouraged), CWO, Social Worker, etc. FAO made?

IF SO: Informant's experience of 'professionals'. Satisfaction? Areas of concern?

What attitude did the interviewee expect to encounter from legal officials when they became involved in any Children Act dispute? Was this borne out in practice?

What does interviewee think would have happened if proceeded to court? e.g perceptions of legal bias, interference, fair hearing etc.?

What circumstances would lead the interviewee to take legal advice again/proceed with court case?

What advice would interviewee give Traveller in same circumstances re: going to court/seeking legal advice?

CASE PROCEEDING/ED TO FULL TRIAL

Did the interviewee initiate the legal proceedings/advice process? Or react to the other party's legal action? WHY? What is the history of the dispute?

Did (respondent in case) interviewee take legal advice? WHY? Who from? How did they hear about the particular source of advice sought?

What type of advice was received? Was a second opinion sought? Satisfaction with advice? (Perceptions of discrimination??)

Did the interviewee receive legal aid or pay for legal services themselves/with help from relatives?

(WHERE NOMADIC) How long remained in particular area, (stability of site, employment status from site) and is this related to proceedings? Problems over eviction etc.? Did this have any impact on the advice given?

What attitude did the interviewee expect to encounter from legal officials when they became involved in any Children Act dispute? Was this borne out in practice? (cultural awareness, extended families, attitude to schooling, etc.)

(WHERE NOMADIC) Are legal officials aware of Travelling culture, and problems associated with eviction/postal access etc.

Has the legal advice led to any change of circumstances? e.g Settlement into house? Change of residence of children? Alteration of Travelling patterns?

Other 'professional' involvement? e.g. court mediation (ordered or encouraged), CWO, Social Worker, etc. FAO made?

IF SO: Informant's experience of 'professionals'. Satisfaction? Areas of concern? (check: cultural awareness)

(WHERE NOMADIC) Are professionals aware of Travelling culture, and problems associated with eviction/postal access etc., cultural awareness, extended families, attitude to schooling, etc. **EXPERIENCE OF SW/CWO INTERVIEWS + PERCEPTION OF FAIRNESS OF REPORT, ATTITUDES TO SITES, ETC.**

Interviewee perceptions of court PRE-CASE? e.g concerns over legal bias, interference in lifestyle re: CWO reports, prospects of fair hearing etc.?

ACTUAL Court Experience: (where this has occurred) (cultural awareness, discrimination, problems over timing of cases, evictions, etc.????)

ON-GOING CASE: Has interviewee considered dropping the case? Why? Projected outcome.

ACTUAL OUTCOME: (change of circumstances, interviewee satisfaction, etc.)

Perceptions of children's attitude to case/satisfaction.

How arrangements working. Problems?

Decrease/increase in hostility between partners etc.? Impact on other family members?

FUTURE? Consider sticking to arrangements, returning to court, moving? Travelling or Settling to facilitate arrangements or break with arrangements.

What would lead the interviewee to take legal advice again/proceed with court case in same circumstances?

What advice would interviewee give Traveller in same circumstances re: going to court?

ANY OTHER POINTS:

APPENDIX 3

Vignettes for ‘professional’ interviews: (CWO and solicitors)

- a) CWO Vignettes – Cases a-c
- b) Solicitor Vignettes – Cases a-c

Appendix 3a)

COURT WELFARE OFFICERS' VERSION **VIGNETTES**

Case A

ABOUT THE FAMILY

Annie (now aged 19) and Mike (currently aged 24) had a year long relationship although they have never cohabited. Their relationship ended 2 years ago when Annie was three months pregnant with their daughter **Hanna (now 18 months old)**.

The mother/cohabitant & child subject of the Application

Annie lives with their daughter in a local authority flat on the seventh floor of a tower block on a housing estate.

Annie has cohabited with **Daz (a settled Traveller aged 23)** for eight months. Their relationship began ten months ago. They met when Annie and Hanna attended a local one-day Festival.

Daz had been Travelling with friends and was resident on a unauthorised site in the locality. When the site was evicted several weeks after he had met Annie, he moved into her flat.

The father/cohabitant & her child

Mike has had limited contact with Hanna since her birth, seeing his daughter occasionally when Annie has taken Hanna to see her paternal grandmother. Although Mike admits to having had 'difficulties' in the past, he is now settled in a stable relationship, with a woman (**Fiona aged 30**) with her own (mortgaged) house and her four year old son (**Liam**). He intends to marry his partner in the near future.

Other relatives

Annie's parents and maternal grandmother live near to her, and she is said to have a warm and supportive relationship with her relatives.

Mike's family live several miles away from Annie and have requested that she lets them see the little girl two or three times a year. **Laura (Mike's divorced mother)** sends Christmas and Birthday cards to Hanna but has never been to Annie's home to see her grand-daughter, although Annie has taken the child to her house on two or three occasions since her birth .

The circumstances leading to your involvement in this case

Unable to settle in a flat on a housing estate, Daz decides to return to Travelling. Annie wishes to experience a nomadic way of life and they are planning to leave her flat and take Hanna Travelling with them. Daz has purchased an old coach and they are currently stripping it out, preparing it as a living vehicle. They intend to travel in Britain throughout the summer and are contemplating going to Spain for the following winter.

On hearing of Annie's plans, Mike has applied for *Parental Responsibility* and a *Residence Order* as he feels that he, Fiona and Liam can 'make a new start' and offer a better home to Hanna than she would have living in a tower block with her mother and her 'gypsy' boyfriend.

Laura states that whatever happens over the residence application, she does not wish to lose contact with Hanna, and has been *joined as a party to the Application, seeking contact* with the child.

At the first directions hearing, Mike has told the Clerk/Magistrates that even if he and Fiona cannot have Hanna living with them, he is extremely concerned at the risks to the child of Travelling, as he has read in the papers about 'raves' and drug-taking on NT sites. He wishes to ensure that Hanna is raised in a house and attends school when she is old enough. He is adamant that she should not be taken abroad.

The case is adjourned and you are appointed to undertake an assessment of the family. What would you do now?

Following your assessment (and bearing in mind the time scale before the family hope to begin Travelling), you make a recommendation that Interim Residence be granted to Annie and that Mike be granted weekly visiting contact with Hanna at his mother's home for two hours over the next three months, with a view to his obtaining Parental Responsibility and fortnightly overnight staying contact at Fiona's house. You recommend that the case is reviewed in three months time

An interim order is made in the terms recommended. You meet with the parties to the case (separately) shortly before the return date for the case. Neither of the child's parents are happy with the arrangement although Laura (grandmother) is satisfied with things as they stand.

Although Mike states that he has had contact with Hanna in the terms stated on eight occasions, considerable difficulties are now arising. On two occasions Annie has not been able to bring Hanna to the contact session due to (once) the child's sickness and (once) transport problems. Mike wishes to introduce Hanna to his partner and her child sooner than recommended and wants them to be present at the contact sessions.

Annie is reluctant to leave Hanna alone with Mike and his mother as she feels the child is 'confused' by the situation and is certainly not ready to meet new people. Also, she does not have access to a car and knows nobody in Laura's locality so sits in a local cafe for the period of the contact session.

Annie and Daz have also stated that in order for them to make a living over the summer they need to be itinerant, and that therefore contact cannot occur as frequently or as inflexibly as stated within the Interim Order. Moreover, they have just discovered that Annie is pregnant and she is adamant that her children should be treated identically rather than differentiated by reason of their parentage. Daz states that he considers Hanna to be his daughter now and is indignant that Mike has 'suddenly gained an interest in her'. The couple are opposed to Mike's continued contact with Hanna and are now determined to move abroad next winter.

What would you do now? What (if any) further investigations would you undertake? What recommendations would you expect to make after completing any further investigations?

COURT WELFARE OFFICERS' VERSION VIGNETTES

Case B

ABOUT THE FAMILY

Cassie (aged 34) and her husband Tim (38) have two children: Miranda (12) and Phillip (aged 9). After thirteen years of conventional marriage, some of it spent living abroad as a 'forces family', Tim was made redundant from the Army eight months ago. Since that time he has been supporting his family with his substantial redundancy payment received for 20 years Army service, 17 of which were spent as a 'career officer', and also relying on some money from family Trusts.

Since his redundancy, Tim has not worked, and over the past six months has discovered an interest in "alternative life" after meeting a number of "eco-warriors" and New Travellers who moved into the locality to set up a road protest site.

The family home is a four bedroomed detached house with a large garden. Both parents and the children are currently resident in the house. Cassie and Tim have lived in separate rooms for the past four months and see little of each other as Tim is frequently absent from the house during the day. Both parties are reconciled to the fact that their marriage is effectively over. Tim is willing for Cassie and the children to keep the house, and is prepared to make financial arrangements to support the children in their private education *for as long as he is financially able*.

Neither party has formed another relationship.

The mother and children

Cassie works on a part-time voluntary basis and sits on various local Committees. The children attend local private schools as 'day children'.

Cassie has applied for a divorce on the grounds of "unreasonable behaviour" as she feels that Tim has been acting somewhat "oddly" since his redundancy, and she considers his fascination with eco-protesting and his new-found Traveller friends are a substitute for his established role as an Army Captain. She is unable to tolerate Tim's frequent absences at the local Road Protest site and the fact that he brings Travellers home to use the bathroom, and sits up talking with them for half the night.

The children are apparently doing well at school and seem interested in their father's new life-style, appreciating seeing more of him than when he was working. They have settled well in the locality, and although they are somewhat embarrassed by their father's behaviour and friends on occasion, appear to feel that it is 'a stage' he is going through.

Cassie tells you that Tim has taken the children to the Protest Site on a number of occasions, (**against her express wishes**), and that although they have come back rather grubby, they appear happy and interested in the setting, and the people living there.

The father

Tim has refused to attend Marriage Guidance or Counselling, stating that he has finally realised what he wants to do with his life.

Tim is unable to comprehend Cassie's concerns over the effects on the children and her position in local society of his behaviour, and "unconventional friends".

Although Tim is apparently willing to agree to Cassie divorcing him for "unreasonable behaviour" as he now finds their marriage unfulfilling and stifling, he is adamant that he wants to see the children and to be able to take them onto the Protest site where he lives half of the time.

Tim is planning to move onto the Site on a permanent basis when divorce arrangements are finalised. To this end he has bought and converted a large ex-army vehicle creating two separate bedrooms, and installing a kitchen and shower. After the Road Protest site is evicted, Tim intends to Travel on a permanent basis, albeit remaining in the locality.

The circumstances leading to your involvement in the case

Although both adult parties to the case are in agreement over the divorce arrangements and children's residence, no agreement can be reached over contact arrangements. Concerns have also been raised by the Applicant (Cassie) over

financial arrangements, as she feels that it is likely that the children will need to leave their schools in the fairly near future if their father is unable to pay the fees. She is also worried about the expense in keeping on a large house as she is not trained in any particular work, having had a career as ‘an officer’s wife’ and she feels that her earning capacities will be low.

At the first hearing (FPC before Magistrates/ Justices’ clerk) the case is adjourned and you are appointed to undertake an assessment of the family

Cassie states that Tim’s one demand is that the children have regular contact with him on Site and become integrated into his anticipated new lifestyle. Cassie is willing for Tim to see the children, as she consider that they have a good relationship with their father, but is opposed to their visiting/staying on Site as she feels that they will be “at risk” or “confused” in some way.

Tim says he wishes to see the children “several times a week” after school and on alternate weekends whilst living at the Road Protest Site. He envisages they will have frequent staying contact with him at whatever sites he moves onto.

What would you do now? What recommendations do you think you would make?

COURT WELFARE OFFICERS’ VERSION VIGNETTES

Case C

ABOUT THE FAMILY

Chrissy (aged 28) has been a Traveller since the age of 17. She has never been married. She has a son (**Zed aged 7**) and a daughter (**Fern aged 3**). She separated from Zed’s father (**Chakka - age unknown**) when Zed was three months old and he has only met their son at rare intervals as he lives abroad most of the time. On occasion Chakka meets up with Chrissy and her family at Festivals, but Zed is unaware that he is his father.

By the time Zed was a year old, Chrissy was living with **Johnno (aged 26)** another Traveller.

Chrissy and Johnno’s relationship has been on and off for several years, allegedly punctuated by bouts of domestic violence, triggered by Johnno’s alcohol abuse. Five years ago the family moved into settled housing in the hopes that once the pressures of Travelling and repeated eviction had been removed, Johnno would be able to control his alcohol use. However, the drinking and violence continued, leading to Chrissy obtaining an injunction against her partner.

After Johnno sought help for his drinking the family were reconciled and Fern was born. Following financial problems, linked to the family’s inability to cope with a

settled lifestyle and regular bills, they went back 'on the road' shortly after the birth of their daughter.

The family remained fairly stable for the next two years until the death of Johnno's mother with whom he had a 'difficult' relationship. Since his mother's death and Johnno's inheritance of a house (since sold) and some money, much of which he spent on the purchase of a better living vehicle in which the family travelled abroad for a while, and a generally 'good lifestyle'; Johnno's drinking allegedly became out of control and the violence recommenced.

The mother & children subject to the Application

Chrissy left Johnno three months ago, taking the children with her. After hearing from mutual friends that he is determined to "find her and get the family back together again" she consulted a solicitor. She has also heard that Johnno has said that if she will not return to him, he will take the children off her as "he is a better father than she is a mother". Although reluctant to go to court as she does not want to be 'forced to settle into a house' and also suspicious of initiating investigations into Traveller lifestyles, following legal advice, Chrissy has applied for a Residence Order.

The mother and both children are living in a converted ambulance parked up in a friend's field. Johnno does not know their whereabouts. The oldest child (Zed) is currently attending a local school (and has done so for two months). The family expect to be able to remain on their present site for several months, and water is readily available through the owners of the field. The mother and children are in receipt of Benefits.

In her affidavit Chrissy states that whilst Johnno has never assaulted the children they have witnessed violence and verbal abuse towards her, and that Fern has exhibited fear of her father in recent months.

The father

Johnno has been served with notice of the s8 application, with the papers being delivered to his last known contact address - his father's house - (Johnno's parents were divorced fifteen years ago but he is known to keep in touch with his father and half-siblings).

To date, no acknowledgement of service has been received from Johnno, but it is expected that he will wish to be party to the case as the mother believes that due to his close relationship with the children he may ultimately seek Residence, or at the very least Contact, with both children if he cannot keep the family intact.

The circumstances leading to your involvement with the case

At the first hearing (FPC before Magistrates/ Justices' clerk) the case is adjourned and you are appointed to undertake an assessment of the family as concerns are expressed by the Court over the children's circumstances

You interview the mother in your office initially.

Chrissy acknowledges (apart from the alcohol abuse which she says triggers the domestic violence; that in all other ways) Johnno is a good father and works as a mechanic, builder, carpenter, metalworker and occasional entertainer between alcohol 'binges'.

Chrissy is anxious to remain living in a vehicle and wishes to recommence Travelling in the Summer as she has considerable craft and entertainment skills which will enable her to make a living at Festivals.

She has heard that Johnno has stopped drinking in the three months since she has left him and has also said he is prepared to move into a house if necessary to obtain the children. Ideally Chrissy does not want anything further to do with Johnno, but thinks that the children may feel differently.

Zed (oldest child) believes that Johnno is his father and he has always been treated in that manner by Johnno. Chrissy does not particularly wish to tell him otherwise, but is concerned that the court case will lead to Zed discovering Johnno is not his biological father.

The day after your initial interview with Chrissy you receive a telephone call from the Court to advise you that Johnno has contacted them to say that he has received the papers, and wishes to see you. You telephone him at his father's house and he advises you that he "wants the kids back".

You make an appointment to see Johnno the next day. He has been staying with his father and step-mother for the past two weeks and has seen an alcohol counsellor to discuss his drinking. He acknowledges that he considers Zed to be his own son, although he does not have Parental Responsibility for either child. He confirms that he is willing to move into a house if the children can remain with him. He believes that he is as good a parent as Chrissy despite his drinking, and tells you that she used to have an amphetamine addiction although she "has been clean since I [Johnno] got her off it when Zed was a kid"

What particular issues would you focus on in such a case? What recommendation would you be likely to make in such circumstances?

Appendix 3b)

VIGNETTES: SOLICITORS' VERSION

Case A

Annie (now aged 19) and Mike (currently aged 24) had a year long relationship although they have never cohabited. Their relationship ended 2 years ago when Annie was three months pregnant with their daughter **Hanna (now 18 months old)**.

Annie lives with their daughter in a local authority flat on a housing estate. Annie's parents and maternal grandmother live nearby, and she is said to have a warm and supportive relationship with her family.

Mike's family live several miles away from Annie and have requested that she lets them see the little girl two or three times a year. **Laura (Mike's mother)** sends Christmas and Birthday cards to Hanna but has never been to Annie's home to see the child. Mike has had limited contact with Hanna since her birth, seeing his daughter occasionally when Annie has taken Hanna to see her paternal grandmother.

Annie has cohabited with **Daz (a settled Traveller aged 23)** for eight months. Their relationship began ten months ago. They met when Annie and Hanna attended a local one-day Festival.

Daz had been Travelling with friends and was resident on a unauthorised site in the locality. When the site was evicted several weeks after he had met Annie, he moved into her flat.

Laura and Mike attend at your office stating that although Mike has had 'difficulties' in the past, he is now settled in a stable relationship, with a responsible older woman (**Fiona aged 30**) with her own (mortgaged) house and a son of four years old. He intends to marry his partner in the near future and feels that they can offer a better home to Hanna than she would have living in a tower block with her mother and her 'gypsy' boyfriend. Laura states that whatever happens over residence, she does not wish to lose contact with Hanna.

What orders would you recommend that Mike/Laura apply for? In the circumstances outlined above, what advice would you give Mike & Laura on the most likely outcome of any s8 application?

Unable to settle in a flat on a housing estate, Daz decides to return to Travelling. Annie is eager to experience a nomadic way of life and they are planning to take Hanna Travelling with them. Daz has purchased an old coach and they are currently stripping it out, preparing it as a living vehicle. They intend to travel in Britain throughout the summer and then go to Spain for the winter.

Mike attends at your office in a distressed state. Even if he and Fiona cannot have Hanna living with them, he is extremely concerned at the risks to the child of Travelling, as he has read in the papers about 'raves' and drug-taking on NT sites. He

wishes to ensure that Hanna is raised in a house and attends school when she is old enough. He is adamant that she should not be taken abroad.

What orders would you recommend that Mike applies for? In the circumstances outlined above, what advice would you give Mike on the most likely outcome of any s8 application? What advice would you give him regarding likely court procedures at this stage?

The Court Welfare Officer makes a recommendation that Mike be granted “reasonable contact” with Hanna at his mother’s home, with a view to initiating fortnightly staying contact at Fiona’s house and possibly shared residence ultimately.

Mike returns to your office and informs you that having had contact with Hanna for a few hours at his mother’s house on two occasions, considerable difficulties are now arising. Annie and Daz have stated that in order for them to make a living over the summer they need to be itinerant, and that therefore contact cannot occur as frequently or as inflexibly as stated within the Interim Order. Moreover, Mike has just discovered that Annie is pregnant and she is adamant that her children should be treated identically rather than differentiated by reason of their parentage. Daz allegedly considers Hanna to be his daughter now and is said to be indignant that Mike has ‘suddenly gained an interest in her’. The couple are opposed to Mike’s continued contact with Hanna.

Advise Mike about possible court-ordered remedies available - and discuss what is likely to influence the court in coming to a decision.

Solicitors’ Vignettes: Case B

Cassie (aged 34) and her husband Tim (38) have two children: Miranda (12) and Phillip (aged 9). After thirteen years of conventional marriage, some of it spent living abroad as a ‘forces family’, Tim has been made redundant from the Army and has recently discovered an interest in “alternative life” and road protesting.

Cassie attends your office stating that she wishes for a divorce as she feels that Tim has been acting somewhat “oddly” since his redundancy, and that she now considers his fascination with eco-protesting and his new-found Traveller friends are a substitute for his established role as an Army Captain. She is unable to tolerate Tim’s frequent absences at the local Road Protest site and the fact that he brings Travellers home to use the bathroom, and sits up talking with them for half the night. Tim is unable to comprehend her concerns over the effects on the children of his “unconventional friends”.

Although Tim is apparently willing to agree to Cassie divorcing him for “unreasonable behaviour” as he now finds their marriage unfulfilling and stifling, he is adamant that he wants to see the children and be able to take them onto the Protest site where he lives half of the time. Cassie tells you that the children have been to the Site on a number of occasions, **(against her express wishes)**, and that although they

come back rather grubby, they appear happy and interested in the setting, and the people living there.

Tim is planning to move onto the Site on a permanent basis when divorce arrangements are finalised. To this end he has bought and converted a large ex-army vehicle creating two separate bedrooms, and installing a kitchen and shower. After the Road Protest site is evicted, Tim intends to Travel on a permanent basis, albeit remaining in the locality. Cassie states that his one demand is that the children have regular contact with him on Site and become integrated into his new lifestyle. He wishes to see the children "several times a week" after school and for alternate weekends whilst living at the Road Protest Site, and then envisages they will have frequent staying contact with him at whatever sites he moves onto.

Cassie is willing for Tim to see the children, as she consider that they have a good relationship with their father, but is opposed to their visiting/staying on Site as she feels that they will be "at risk" or "confused" in some way.

What advice would you give Cassie regarding completion of Form C1 (Statement of Arrangements for Children) when filing for her divorce? What (if any) Order would you recommend she applies for? Why? What advice would you give Cassie regarding likely court procedures in these circumstances? What particular factors would you expect the CWO to take into account when making an assessment/preparing a report? What outcome would you expect of a s8 application in this situation?

Solicitors' Vignettes: Case C

Chrissy (aged 28) has been a Traveller since the age of 17. She has never been married. She has a son (**Zed aged 7**) and a daughter (**Fern aged 3**). She separated from Zed's father (**Chakka - age unknown**) when Zed was three months old and he has only met their son at rare intervals as he lives abroad most of the time. On occasion Chakka meets up with Chrissy and her family at Festivals, but Zed is unaware that he is his father.

By the time Zed was a year old, Chrissy was living with **Johnno (aged 26)** another Traveller. Chrissy and Johnno's relationship has been on and off for several years, punctuated by bouts of domestic violence, triggered (so Chrissy says) by Johnno's alcohol abuse. Five years ago the family moved into settled housing in the hopes that once the pressures of Travelling and repeated eviction had been removed, Johnno would be able to control his alcohol use. However, the drinking and violence continued, leading to Chrissy obtaining an injunction against her partner.

After Johnno sought help for his drinking the family were reconciled and Fern was born. Following financial problems, linked to the family's inability to cope with a settled lifestyle and regular bills, they went back 'on the road' shortly after the birth of their daughter.

Johnno and Chrissy's relationship remained fairly stable for the next two years until the death of Johnno's mother with whom he had a 'difficult' relationship. Since his mother's death and Johnno's inheritance of a house (since sold) and some money, much of which he has spent on the purchase of a better living vehicle in which the family travelled abroad for a while, alcohol, and holding parties for his friends; Johnno's drinking became out of control and the violence recommenced.

He has never assaulted the children but Chrissy says they have witnessed violence and verbal abuse towards her, and Fern has exhibited fear of her father in recent months. In all other ways, Johnno is a good father and works as a mechanic, builder, carpenter, metalworker and occasional entertainer between 'benders'.

Chrissy has left Johnno, taking the children and moving into a converted ambulance which she has parked up in a friend's field. Chrissy is anxious to remain living in a vehicle and wishes to recommence Travelling in the Summer as she has considerable craft and entertainment skills which will enable her to make a living at Festivals. Johnno has told mutual friends that he will find the family and 'get them all back together again'. Alternatively, if Chrissy will not return to him, Johnno has allegedly stated that he will take the children as he is 'a better father than she is a mother'.

Chrissy comes to your office seeking advice as to how she can ensure that Johnno will not take the children. Ideally she does not want anything further to do with Johnno, but thinks that the children may feel differently. She suspects that Johnno may ultimately seek Residence, or at the very least Contact, with both children if he cannot 'get me and the kids back'. Zed believes that Johnno is his father and Chrissy does not particularly wish to tell him otherwise. She has heard that Johnno has stopped drinking in the three months since she has left him and has also said he is prepared to move into a house if necessary to obtain the children.

Chrissy is reluctant to go to court as she does not want to be 'forced to settle into a house' and she is also suspicious of initiating investigations into Traveller lifestyles. She informs you that at one point she had an amphetamine addiction but that she has not touched drugs since Zed was two years old. She does not think that Johnno will mention this if she has to go to court, but is concerned that if she raises his alcohol abuse he might discuss her previous drug use in retaliation.

What orders (if any) would you recommend that Chrissy applies for? Why? What would you expect to happen at a Directions Hearing in these circumstances? What particular issues would you expect the a CWO to focus on if an investigation is ordered? Would you expect any particular difficulties to arise over the parentage of the children? What advice would you give Chrissy to prepare her for any court ordered procedures which may arise? What outcome would you expect of a s8 application in these circumstances? Would you expect any other orders to be made on the Court's own motion?

APPENDIX 4

‘Professional’ interview findings and Travellers’ ‘wish-list’

- 4a) ‘Professional’ interview findings
- 4b) Travellers’ ‘wish-list’

Appendix 4a)

‘PROFESSIONAL’ INTERVIEWS: KEY FINDINGS

CWOs: 4 cases

4 CWOs from two regions (2 each from the North, and South-West areas) were interviewed. 3 informants had direct experience of practice with NTs and one CWO had knowledge of the client group through personal contacts. Vignettes used in undertaking the CWO interviews are attached as Appendix 3 of the thesis.

Given their degree of knowledge and experience of NT families, these particular informants, possessed a distinct profile when compared with their colleagues who had worked with the Traveller sample.

- Although any CWO who had wished to participate in the research (carried out by use of vignettes) would have been interviewed, the only informants who came forward at this stage of the research had already experienced interactions with the Traveller community. Given the paucity of CWOs without contact with this community, indications may exist that in general, these professionals do not consider Traveller culture or lifestyle as particularly relevant to their practice, or worthy of especial consideration.
- Unlike all but one CWO encountered by Traveller informants, these professionals had experience and knowledge of nomadic communities and an awareness of their cultural specificity.
- All interviewees were aware of diversity within the New Traveller community and did not assume that nomadism automatically implied irresponsibility or anti-social behaviour.

“I don’t think Travelling is irresponsible, but I think that some Travellers are irresponsible, but then some people living in houses are irresponsible... but certainly if you’re living in a coach you need to know that the child is going to be alright and that the vehicle has heating, a kitchen and all these things” (CWO2)

“there are probably different values held by different groups of Travellers and some may lean more towards being child oriented in focus... if they are going to Travel with a group of very young Travellers primarily with no children, then the parties might be a lot wilder than if you Travel with a group of other parents who set up sort of nursery care” (CWO3)

“are they going to be constantly on the road, or have they got an ideas as to where they’re going to stop... some people like to Travel in a group and some people say they can’t be doing with that. Because if you Travel in a group then if the others have got ‘problems’ then you have to end up dealing with that” (CWO4)

Analysis of CWOs responses to vignettes revealed a number of key themes, which showed a marked similarity to Travellers’ own perceptions of responsible parenting, and indeed awareness of problematic aspects of their lifestyle.

- Two CWOs acknowledged that soft drugs use is largely socially acceptable among the NT community and did not express any disapproval of that aspect of their lifestyle, reserving their concern for situations where a child would be exposed to “potential harm from inappropriate drug use” (CWO1)
- All four CWOs were clear that ‘different types of Traveller’ exist, ranging from ecologically minded ‘deep greens’ to heavily alcohol abusing ‘brew crew’ and, ‘family oriented’ groups who support each other through mutual childcare strategies.
- While all four CWOs work to the framework of the Children Act 1989 checklist, they are all aware that it is a flexible tool, and do not believe that it should be used to impose a particular normative lifestyle on families.
- All four informants indicated that while contact must always take place between a child and an absent parent (unless a danger of violence exists and contact cannot take place in a safe environment) they were clear that it was

possible to arrange for a flexible interpretation of contact, which would not necessitate a nomadic parent settling into housing.

“festivals tend to be fairly predictable so that at least gives one some idea of their approximate geographical location at any given point” (CWO1)

- Only one CWO was uneasy about the possibility of a nomadic parent moving abroad with a child, on the grounds that contact would be limited with the other parent. All other CWOs felt that as long as some form of contact was retained, then the integrity of the Traveller parent must be preserved. Moreover, three informants (including the informant who was unsure about their response to a parent wishing to Travel on the continent) acknowledged that Travellers are unlikely to remain abroad on a permanent basis, even if only returning to see their parents and friends, or to attend a festival in the UK.

“I don’t see any problem with them Travelling, the court will say that if it is established that mother and child should be together, then they should not be separated just because she wants to Travel...maybe the most we can do is say ‘would you be willing to have letters and cards, so what are the opportunities for sending letters, presents, you know...there are many and varied ways of keeping that parent alive and she could stay with [grandmother] for a fortnight every year say” (CWO2)

“people follow their own lives, lots of people go abroad, judges have often said ‘if he’s got a job abroad, well it’s sad, but that’s the way it is, people have to get on with their own lives” (CWO2)

“there’s no law against it, you can move where you want to go and if that means your child goes with you then the contact arrangement will have to work around that....I wouldn’t say that the difficulties are especially serious because there is a Travelling issue” (CWO4)

- One CWO expressed an interesting variant on the views expressed by Traveller informants' solicitors, and stated that for court purposes, she would downplay (but not ignore) the Travelling aspect of the case.

"well my attitude here, is let's play it [Travelling] down, because the more we let this be sensationalised, the more we play up to his [father in vignette] attitudes and anxieties...my attitude here is we've got a little girl whose always lived with her mother so why on earth start moving her away to another parent – because that's basically what it's about – with absolutely no good reason as far as I can see" (CWO4)

- All informants offered a fairly sophisticated analysis of the strength of Traveller support networks, and their role in sustaining the community. Moreover, three informants reported that domestic violence issues would often be dealt with by the nomadic community, rather than seeking outside assistance (DV issue in vignette 3). These comments indicate both considerable knowledge of the ways in which Traveller society deals with problematic behaviours (see chapter 7) and a recognition of the close-knit nature of the nomadic community.

"I would want to know ..what sort of support she has – especially where she will be going and what she is doing over the summer, because she may actually have a good support network in the people she has been Travelling with, because they do become very close" (CWO2)

"A lot of these cases don't come to court, simply because it is a close enough community to manage these very sorts of issues, even when the parents do spend time at the same venue" (CWO3)

- Two CWOs referred to the fact that Travellers are predictable in the nomadic patterns, and therefore, when both parties are Travellers, contact could usually

be arranged to take place at festivals or sites, precluding the need to set rigid times and contact patterns which would impact on all the parties to a case.

“From what I know, they tend to take off on a fairly predictable route really” (CWO1)

“in this case, well they’ve both been living a Travelling lifestyle, so this is a case where both parties know more about these issues than me, so this might be one where I say to them – how are you going to arrange contact...but it really is down to how much people are prepared to help and take responsibility over this” (CWO4)

CWOs in this sample appeared willing to recommend orders which to a large extent tallied with Travellers own preferred outcome for court cases. While vignettes obviously cannot be compared with actual cases on a like for like manner, given the prevalence of prohibited steps orders and supervised contact experienced by the Traveller sample, the CWO informants appeared highly unlikely to recommend such outcomes, even where the vignettes suggest fairly conflictual situations.

- Only one CWO would consider recommending a Prohibited Steps Order in the circumstances detailed in vignette one, where a Traveller parent is considering removing a child abroad, contrary to the wishes of a settled parent. In contrast, three out of nine Traveller informants received a PSO during interim proceedings. Of these three Traveller informants, one had informed the court that they were considering a short trip to Ireland to visit friends for a few weeks, and neither of the other informants was at that point considering leaving the UK.
- In the circumstances detailed in the vignettes, CWOs would only consider recommending supervised contact in the domestic violence case, and then **only** if there were no other way of ensuring the safety of the mother during contact visits. However, as referred to above, three informants reported that they believed the mother would be able to access safe contact while resident with other Travellers who would intervene to halt physical abuse occurring.

- In common with Traveller informants, three CWOs reported that their preferred arena for family proceedings (if cases could not reach a negotiated resolution) was the County Court, as judges were generally more experienced and open-minded than magistrates. However, two CWOs reported that in their experience the overwhelming majority of cases were heard by magistrates for reasons of cost and current government policy.

“magistrates courts are more insular in their approach to these things and they also take an awful lot of time..it’s no use talking to them, you just have to put everything in reports and wait until it sinks in. So yes, I try and take an educative approach to magistrates, whereas you don’t need to do that with judges” (CWO2)

“family judges generally deal with more cases, and they have better training, more experience and greater powers to make hard decisions...I just have greater confidence in judges and I think every CWO has” (CWO3)

“I will say this, in my opinion, the judges at County Court are far more open minded about unusual lifestyles than are the magistrates’ courts, and I would always wish, if I was doing one like this, then I would always want it to be in the County Court” (CWO4)

Solicitor: 1 case

Only one solicitor agreed to be interviewed, and in common with the CWOs, this individual (based in the South West) had prior knowledge and experience of Traveller family cases. Although advised they were acting for one particular client, rather than taking an overview of the situation, the solicitor was presented with the same vignettes as used by the CWO interviewees.

- Solicitor did not consider Travelling particularly relevant to any of the vignettes, but expressed more concern over the level of stability and care available to a child, whether or not they were housed. In this way, the solicitor expressed opinions which were close to both Traveller informants, and CWO

interviewees, indicating that her advice giving processes are informed by prior experience and knowledge of nomadic culture.

“there are Travellers and there are Travellers, there are people who lead a very ordinary lifestyle but they just happen to live a Travelling lifestyle and there are clients that I have represented let’s say, who do very little other than go drinking and Travelling. However, that is the same whether someone is Travelling or not.”

- Would only resort to use of PSO in vignette one, and then only if acting for non-Travelling parent and had genuine concerns that the nomadic party would remove the child prior to an order being made. In such circumstances might also seek a Specific Issue Order to ensure that the housed Traveller remained settled for a short while until the matter was decided by the court. Would always prefer to have a complicated issue of this type decided by a County Court, but aware of the problematic of seeking such an order.

“it’s not something the courts would do very easily, because they don’t like to force mum to stay in a particular area, but I think I might be able to get them to do it just for a short space of time.....we would be asking the judge to decide between a Travelling lifestyle and a non-Travelling lifestyle which I personally think is better suited to a judge rather than magistrates who don’t sit all the time and may not have come across anything like this”

- In common with CWOs (see above) the solicitor believed that a non-Travelling father should consider going to sites to have contact with a nomadic child, enabling him to see additional elements of the child’s life, and also to take responsibility for certain aspects of the contact relationship. Would also discuss indirect contact (letters and presents) with the client if believed that nomadic party would participate in the arrangement. However, if the Travelling party deliberately evaded contact, would be willing to return to court to seek enforcement action, possibly threatening the recalcitrant party with the ultimate sanction available to the court, that of change of residence of

the child if the non-Travelling party guaranteed to ensure contact took place with the Traveller parent.

- In all cases the solicitor would encourage negotiation between the parents prior to seeking court action. When advising mediation would make clear to both parties that the welfare of the children is paramount in any decision made by the court, and that negotiated agreement between the parents might prove more satisfactory than an imposed order.
- In the one case where the solicitor was advised they were acting for the Traveller client, they did not consider that the court would be concerned about the client's nomadism.

"I would say to mum that she won't be forced to move into a house, she is not going to be forced to change her lifestyle just as long as she can show she is child-centred"

- In vignette three (DV issues) would consider seeking supervised contact if no other arrangement could be made which guaranteed the safety of the mother.

Conclusions to professional/legal findings

Overall a surprising degree of consensus exists between the CWOs and solicitor in terms of recommended action over cases. While the solicitor is somewhat constrained in advice giving options by her role as an 'inequitable' advocate, her knowledge of the Travelling community is demonstrated by her preference for negotiated agreements, knowledge of the heterogeneous nature of the Travelling community, and unwillingness to resort to discriminatory tactics when an opposing party is nomadic. Once again, in common with the stance taken by both Travellers and CWOs, the solicitor appears reluctant to recommend the use of PSOs and supervised contact, resorting to these options only if it appears that no alternative exists.

In considering the variations found in 'professional' interviews and Traveller informants subjective experience of court proceedings, it would appear that knowledge and experience of Traveller lifestyle is of significance in terms of

recommendations and actions undertaken, implying that 'mainstream' legal professionals are as affected by issues of fear, unfamiliarity and lack of relationships with Travellers, as the social workers identified in Cemlyn's (1998) study of social services provision for Gypsies and Travellers. As such, the findings of the current research can but concur with Cemlyn's conclusions on the necessity of anti-discriminatory training for social workers (1998), and moreover extend her recommendations, to advise that CWOs, magistrates and judges (and where possible solicitors) have access to sources of cultural awareness and knowledge on Traveller lifestyles and the impact of evictions, structural constraints and the role of the extended family in responses to legal and social work intervention.

Appendix 4b)

TRAVELLERS' 'WISH-LIST'

In presenting the 'Travellers' wish-list' in terms of legal contact, it is worth once again reiterating that no informant would willingly engage with the family court system unless they believe that they have no other alternative. However, where Travellers do seek legal advice, the following points would appear to be of critical importance in terms of developing mutual trust and emotional satisfaction with processes and outcome.

Solicitors/Legal Advisors

- While Travellers wish first and foremost to access lawyers who have cultural comprehension of their lifestyles, where this is not possible, informants wanted to be able to instruct solicitors who were prepared to listen to them, offer them emotional and practical support, and accept their lifestyle as a valid choice.
- Travellers want legal and other professionals to recognise cultural diversity in parenting arrangements and the validity of block contact or split residence orders (see further Chapter 7 for a description of widely used contact and residence patterns among Travellers).
- Travellers want solicitors to provide legal advice in a supportive, culturally appropriate manner, which does not place emphasis on the negative behaviours associated with some Travellers.
- Where disputes involve two Travellers, parties do not wish to attack a person on the basis of their identity, placing community solidarity above personal animosity.

Court Welfare Officers and Social Workers

- In order to minimise misunderstandings, and maximise the potential for working positively, Travellers want social workers and court welfare officers

to relate to them as partners in the legal process, and to be willing to take advice from professionals with expertise in Travelling lifestyles.

- Travellers would like CWOs/SWs to have a greater awareness of nomadic lifestyles and parenting practices such as ‘block contact’ and ‘shared parenting’.

Members of the Judiciary

- Travellers want members of the judiciary to have some awareness of their specific cultural history and practical needs in terms of court orders made, as they believe that the requirements of flexibility of contact, impacts of evictions, etc. are either blatantly disregarded or simply unknown to magistrates and judges in the overwhelming majority of cases.
- Travellers were deeply unhappy at the assumption that they would ‘disappear’ with a child unless a supervised contact or Prohibited Steps Order was made, considering such orders impacted unduly on their parenting arrangements and employment patterns.
- Where shared parenting arrangements have been in force prior to legal intervention, then where possible, wanted this pattern reflected in the terms of any order made.

General policy issues:

- Travellers wanted all professionals interacting with Travellers in family proceedings should be aware of cultural practices which inform parenting patterns, to enable a balance to be struck between acting in the best interests of a child and respecting the family’s background and situation specific behaviours.
- As a general policy point, greater use of split residence orders should also be made in circumstances where both parents had been engaged in caring for a child for blocks of time.

APPENDIX 5 A Typology of Characteristics of Traveller Identities

Notes on typology (see page xliv)

The concept of a continuum of Traveller identities is considered in depth in Chapter 4 and where appropriate, revisited in subsequent empirical chapters. Accordingly, reference has been made to distinct characteristics and behaviours associated with ‘types’ of Traveller. While the typology presented overleaf does not address all aspects of ‘strong’ and ‘weaker’ identity types within the New Traveller community, it does serve to illustrate certain propositions presented throughout this thesis wherein particular behaviours (such as movement into and out of housed accommodation and patterns of relationship) are considered as part of a model of Traveller lifestyle.

An examination of the typology of nomadic characteristics reveals that distinct variations may be found between ‘SI’ and ‘WI’ Travellers in certain spheres, often equating (in ‘mainstream’ terms,) with variations in degree of social exclusion and ‘social capital’ within the wider sedentary community. However, Traveller identities converge in the areas of complex family structures, and adherence to certain community values. Most noticeable among the shared ‘core values’ are a belief in a life-long commitment to children (regardless of the significance of the parental relationship), avoidance of external authorities, and an expectation that tolerance will prevail when dealing with other Travellers.

However, despite these cultural expectations (or moral contract), analysis of interview and observational data (and conversations relating to hypothetical events) indicates that informants with a ‘weaker’ identity may on occasion demonstrate a tendency to place their individualism (or self-interest) over accepted codes of Traveller appropriate behaviour. Thus a lower adherence to community mores possibly results from these Travellers’ generally greater access to social and cultural capitals outside of the nomadic context, which in turn enables them to exercise a wider degree of choice over employment, social and accommodation opportunities and therefore diminishes their reliance on the ‘closed’ Traveller community.

Characteristics of Identity

STRONG TRAVELLER IDENTITY

WEAKER TRAVELLER IDENTITY

Characteristics/Attitudes

Strong adherence to the ideology of 'Travelling' e.g tolerance, community, non-judgementalism avoidance of external authorities

Lower adherence to the ideology of 'Travelling'. Strong sense of individualism, lower engagement with community mores

Strong adherence to Traveller identity, and clear awareness perceived of as Traveller by 'outsiders'

May fail to self-identify as 'Traveller' or reveal this fact to 'outsiders'.

Likely to be full-time Traveller.

May be seasonal or full-time Traveller.

Family & Personal Relationships

May have complex family structure e.g. children with several partners, care of 'family of choice'

Tendency to have limited contact with natal family, more likely to perceive of Traveller community as 'family'.

May have fairly close contact with birth family more references to support available from natal family.

Personal relationships formed since Travelling will generally be with other 'strong ID' Travellers.

Relationships formed since Travelling may be with a non-Travelling partner who is sympathetic to culture.

Female informants likely to remain on road as as lone parents.

Female lone parents more likely to repartner fairly rapidly, become housed on separation, or commence seasonal Travelling.

Social contacts predominantly with other Travellers

Although social contacts with other Travellers also has numerous non-nomadic associations.

Extreme reluctance to engage with legal processes over family matters.

If legal proceedings, high likelihood that will revert to pre-court arrangements where possible.

If makes use of court proceedings more likely to adhere to formal arrangements: possibly relating to prevalence of non-Traveller former partners.

Economic Activities

Likely to undertake opportunistic, irregular work eg fruit picking and general festival site crew.

May have small-scale business e.g self-employed craft worker etc. or festival based entrepreneurial activities such as running café, sound system etc.

May work informally for other Travellers, e.g fitting out living vehicles, site mechanic for low pay/payment in kind.

May have marketable skill in 'mainstream' society e.g chef, mechanic, etc. for higher wages through agency.

Travelling History

Tendency to live on unauthorised short-term sites (eg roadside) high degree of mobility.

Although may live on roadside sites, more likely to reside on long-term 'tolerated' sites, perhaps work-related

Often entered into Travelling at young age and remained predominantly nomadic

Likely to have been an 'on and off' Traveller for some years, often becoming nomadic at later age than 'Strong ID' informants

APPENDIX 6

Selected Case Studies

- Box A6.1** Case study of legal advice leading to discontinuation of contact application
- Box A6.2** Case study of successful contact application
- Box A6.3** Case study of 'pre-legal' stage of Contact application
- Box A6.4** Case study of successful residence application brought against the maternal grandparents
- Box A6.5** Case study of injunction application involving residence dispute
- Box A6.6** Case study of social services intervention in shared parenting arrangement
- Box A6.7** Case study of shared residence and housing dispute
- Box A6.8** Case study of residence dispute over Informant and children becoming nomadic
- Box A6.9** Case study of nomadic mother failing to engage with the law in residence dispute with settled former partner
- Box A6.10** Case study of male lone parenthood following 'casual' conception
- Box A6.11** Case study of community assistance when incidence of domestic violence

Box A6.1 Case Study of Legal Advice leading to the discontinuation of Contact application.

MICK:

Committed cohabitation, with festival attending/performer partner. Couple fully nomadic for some months, but over-wintered in urban squat with other Travellers once partner became pregnant. Recommenced Travelling in Spring. Partner wished to retain stable house base, but Mick could not settle. From the time the baby was a few months old the couple were attending separate festivals, with Mick living in his vehicle for increasing periods of time. Separated when child 18 months old. Shared parenting continued for approximately one year, with increasing hostility developing between the parents. Mother had re-partnered with another performer by this time and still attended festivals, but had more or less settled permanently in house between performing engagements.

“we fell out basically.. they were still coming to festivals but I was doing free festivals pretty much all of the time and she didn’t like that, it got to be very difficult...one of those no matter how many plans you make it just goes wrong one way or another, I was seeing him fairly regular and having him for two weeks at a time, that sort of thing but it just all went totally, totally wrong and I was told I wasn’t allowed to have him any more ‘cos I took him to [free] festivals”

After repeated attempts at negotiated contact failed, *“we had personally fallen out to a quite unbelievable degree”* and having discussed the case with friends who could see no other way forward, Mick decided to take legal advice. Despite his solicitors’ *“sympathetic”* support, Mick was shocked to be advised that his nomadic lifestyle would count against him if the case proceeded to court. Subsequently, Mick accepted his lawyers’ advice and dropped the contact application on hearing that his ex-partner was preparing to build up a case against him, based on *“lifestyle and supposed criminal activities”*, and moreover that she was prepared to implicate other Travellers, potentially leading to investigations by other bodies of the law. Mick has had no contact with his son since abandoning the case.

Box A6.2 Case Study of successful Contact application.

JOSH:

Couple had no Travelling experience but shared interests in 'Green' and 'alternative' issues and Paganism. Committed cohabitation preceded partner's first pregnancy. Married shortly after birth of first child, and second child born a year later. Relationship deteriorated rapidly, a few months after second child born, when (at Josh's suggestion) the couple began to experiment with alternatives to heterosexual monogamy, and Josh's wife began a committed relationship with a close mutual friend. Josh moved out of family home into a flat. His children remained resident in the family home with his wife and her new partner. Both children were aged under two years of age. Contact took place on a daily basis initially, gradually becoming less frequent, partly as a result of discouragement from his former wife. *"by three months after we'd split up [they] decided they only wanted me to see [the children] on the weekends, so it dropped right down from seven days to two days"*

Simultaneously with the decline in contact, Josh began seasonal Travelling, further limiting the amount of time he saw his children. Contact took place on this basis for a few months until a dispute erupted between Josh and his wife's new partner, in part stemming from Josh's wish to see more of the children following the serious illness of his son whilst he was away Travelling, and his increased closeness to his wife at this time. A violent incident then occurred, with Josh being assaulted by his wife's partner. In response Josh called the police. On returning to collect the children for a contact visit some hours later, Josh was advised that he could not see them, as his former wife had contacted social services, making an allegation of child abuse against him. Although Josh was cleared of the allegations following a police investigation, he was advised by his wife that he would need to seek a court order if he wished to re-establish contact with the children. Josh approached a solicitor to commence proceedings, ultimately leading to a full court hearing, where he was initially granted contact on strictly supervised terms, restricting his ability to take the children onto sites or to festivals.

Issues of *"corruption"* of children through their exposure to paganism, and the unsuitable nature of sites were of focal importance throughout the hearings, as Josh's wife had converted to Christianity since their separation and wished to distance her children from her former alternative beliefs. Currently Josh has contact for a few hours on alternate Saturdays, and is hoping to apply for greater contact, possibly seeking shared residence.

Box A6.3 Case study of 'pre-legal' stage of Contact application

JON:

Met partner at festival and began contingent cohabitation in the late autumn *"although I had other places I could go"*. Intended to return to Travelling the following Spring, possibly with his partner who had expressed an interest in becoming nomadic. Recommenced 'sporadic' Travelling early the next year, but met with increasing disapproval from partner. Unplanned pregnancy confirmed late Spring, and Jon felt himself under pressure to remain housed and obtain formal employment.

"it was a very gradual change really, but she began to really resent me going off and she wasn't really into coming with me most of the time....there was certainly pressure not to Travel basically, and to stay in a house"

Relationship ended three months after baby born, at request of child's mother. Jon recommenced Travelling, but returned to the area soon afterwards, moving into a house *"so that I could see my daughter."* Shared parenting established by the time baby was six months old, child spending alternate blocks of three and four days with each parent. Parenting relationship worked fairly well, although the mother suggested limitations on contact when Jon raised the issue of taking his daughter Travelling or onto sites. *"I compromised my lifestyle in order to see my daughter at that point, and I knew at the time that it was the only way that I was going to be able to do that without actually going to court."*

Jon remained in contact with the Travelling community, attending festivals and visiting friends on site for *"a few days at a time, and when I didn't have [daughter]"*. Split residence continued until the child was eighteen months old, when mother stopped contact. No particular trigger point for refusal of contact identified, but Jon suggested this may be related to mother's cohabitation with new partner who has no associations with alternative life. Change of circumstances totally unexpected, as parents had agreed at beginning of pregnancy that regardless of their relationship, child-father contact would continue. Jon recommenced Travelling after failure of informal attempts to re-establish contact. Mother now known to have left last known address, and Jon has no contact with his natal relatives so no links to child exist.

After moving to a new area, Jon re-partnered with a lone-parent Traveller with four children. Current partner (in line with the norms of the Travelling community) strongly encouraged Jon to re-establish contact with his daughter, and informal attempts were made to find out where his former partner is now living. Jon has *'put the word out'* in the town where his ex-partner is believed to be resident that he wishes to have contact with his daughter, and he is confident that the child's mother will know of his wishes as *"word spreads very fast up there"*. Although he is making a final attempt to negotiate informal contact, Jon is willing to seek legal advice should his former partner fail to respond. His current partner is encouraging him to explore legal options as she has links to Travellers' Rights groups, and is confident in approaching lawyers. Desired outcome: regular contact with child, initially in her home, with a view to having his daughter to stay on site for block visits.

Box A6.4 Case Study of successful Residence application brought against the maternal Grandparents

JULIE:

Left home at age fifteen to live in squats and Travel. Casual relationship with friend led to conception at age seventeen. Child's father 'on good terms' with Julie, but he moved to Netherlands when she was four months pregnant. No expectations on either side of committed relationship or cohabitation. Julie returned to live with her parents whilst pregnant, on the understanding she would be fairly independent of them. Three months after the child was born, Julie's parents sought and obtained an emergency residence order under wardship proceedings, allowing them full custody of their grandson.

"they kicked me out and made him a ward of court...I was using heroin then, but I wasn't an addict, I were dabbling, but they put it to the courts that I was a full on heroin addict, spun a load of lies about me saying that I was dangerous to me son and that, but all I really wanted to do were move out with me kid"

Julie moved onto a bender site fairly near to her parents' home and took no further action for several months. Some months after losing residence Julie fortuitously met a family lawyer (on a social basis), who was willing to commence residence proceedings on her behalf. On her lawyer's advice, Julie obtained settled accommodation, firstly in a caravan on a stable site, and subsequently a house, and was finally awarded contact with her son two and a half years later, following a series of court cases.

Having taken paid employment and married the man who would become the father of her second child, Julie established a stronger case for residence, and received custody of her son when he was four years old. Around the same time, Julie's marriage broke down after discovering her husband was using heroin and she recommenced Travelling with her children, subsequently repartnering with another Traveller, and giving birth to another child. Julie now has extremely limited contact with her mother, and does not see her father. Her parents have since divorced.

Box A6.5 Case Study of Injunction Application involving Residence Dispute

SU:

Aged 16, and living at home, commenced relationship with older partner, a musician, who toured the country, regularly playing at Festivals. Travelled with him for much of first year of relationship, became pregnant and had first child at age seventeen. Married partner shortly after birth of first child and moved into house. Conceived second child immediately on cohabitation. Su's husband began working close to home, settling into conventional work and discarding connections with Festivals and alternative life

"as soon as I agreed to move in with him he was sort of 'OK can you put some sensible clothes on now and comb your hair and wash up my kitchen floor for me' ...he'd come home at six o'clock and be most distraught to find that I'd gone off with my feminist buddies and that there wasn't actually dinner on the table"

Su had retained contact with the Travelling and Festival scene she had first encountered through her partner, and by the time the second child was born, she had become involved with feminist Travelling networks. Relationship deteriorated with her husband, culminating in a series of violent arguments if she went off to camps and festivals or arrived home late.

"he'd decided I'd become a bit of a hippy and he couldn't stand that...the final straw was me walking out 'cos I'd got home very late one night, I think I'd been at a women's camp or something and he just flipped and threw me round the house and broke my ribs and all sorts of things"

Su and her children left the family home the following morning, going to stay with a (housed) Traveller she had met through the feminist network. She and her friends were then subjected to a campaign of threatening phone-calls demanding that she return home and break off all contact with Travellers and the women's movement. Su's husband also followed her to and from work and telephoned her constantly at her place of employment. At this point Su discovered that she was pregnant with her third child.

After weeks of harassment Su went to a women's advice centre and sought an injunction against her husband. Although her solicitor had no experience of Traveller work, the case was treated as one of simple domestic violence and an injunction was obtained. In retaliation, Su's husband issued a residence application in respect of the two children. The residence application focussed on her lifestyle and contacts, *"he tried to do me as an unfit mother, but actually never went to court, because after collecting evidence his own solicitor had to tell him to drop it because he hadn't a chance in hell"*.

Sue was staying with friends in a house at this point and became a full-time Traveller some months after the residence case had been dropped *"it wasn't until that was completely over that I started Travelling again, because I was too insecure to go anywhere"*. Intermittent contact continued between the children and their father for a year or so after the injunction, but ceased when Su was Travelling.

Informant is now considering attempting to get in touch with her former husband, at the children's request, as they would like to meet him. Su remains concerned that if she instigates contact, the children's father will attempt to obtain residence on the grounds of her lifestyle, and his ability to provide materially for the children. The father's original residence application failed, in part, on his plans for care of the children if he had been awarded custody, as previously he had suggested placing them with his mother. Su understands that her former husband is now both married, and independently wealthy, and is concerned about the way the courts might view any application from him, given their respective practical and economic positions.

Box A6.6 Case Study of Social Services intervention in shared parenting arrangement

JILL:

Breakdown of contingent cohabitation relationship of two years standing led to lone parenthood. Became Traveller when child a few months old as result of seeing friends "*having such a good time*" on the road, and recognition of support network available to lone parents. Shortly after commencing Travelling, repartnered with 'strong identity' Traveller and had two children with him. Relationship ended after three years committed cohabitation. Fourth child born as result of casual relationship with Traveller. Currently repartnered with Pete, who considers youngest child as his own, through social parenthood since child small baby. Father of two middle children close to Jill's oldest son, and shares parenting of all three older children who are aged 11, 9 and 8. (For convenience, ex-partner is referred to throughout as father of oldest child, as biological fathers of oldest and youngest children apparently have no contact with them).

Shared parenting follows typical 'Traveller' pattern of block visits, children remaining with one or other parent for several weeks or months and then transferred over. Oldest children have autonomy to decide whether/when to go to father, sometimes dividing up, with some staying with mother while others are away .

At time of case Father was living in shared house. Two middle children decided to stay with him for approximately three months as wanted change from farm where rest of family were working. Mother and partner received telephone call from father, to say children in care and father in police custody, charged with wilful neglect. Jill was unable to ascertain where children were, as social workers unsure of details of case and reluctant to provide information. Police and social workers had failed to notify mother or maternal grandparents of removal of children although children had contact numbers for both.

Jill and Pete contacted Traveller Health Visitor who covered site where they had previously lived, and through her eventually spoke to social worker dealing with case. They were notified case conference on children to take place following day. Attended

case conference and were told that care order would be extended and investigations would be carried out on mother prior to decision being made on children's residence. Mother and stepfather did not take legal advice, as they had been confident that the children would be returned to them at the case conference.

Jill and her partner returned to their old site and obtained supporting statements re: care of children from health visitors, nursery, school and doctor and faxed these reports to Social Workers. Care order extended twice more but mother able to see children (supervised contact) at location 40 miles from site. Just prior to last court date Jill was notified that children would be returned to her care at next court hearing.

Children placed on child protection register, Jill and Pete to stay on nominated site and to ensure children attended school on daily basis. Father banned from seeing children.

Regular Health Visitor and Social Worker visits took place for six months. Jill unaware of fact school recorded all absences, until family stayed working at vegetable farm for three days longer than half term holiday. They returned to site when the head teacher telephoned to say he had to report them to social services and they should return immediately.

Once children removed from child protection register (believed to be one year after court case, although SW visits stopped within six months) Jill/Pete able to continue work-related Travelling again. Father convicted of child neglect and indefinitely barred from contact. Father Travelling again, but currently lives on stable site and has relationship with lone parent who lives in house. Informal contact occurring on regular basis between father and three oldest children who stay with him at his new girlfriend's home.

Box A6.7 Case study of shared residence and housing dispute

LUCY:

Informant was housed, and had been conventionally married for 16 years, having five children within the marriage. Husband artist, who worked intermittently. Family lived in house bought for them by informant's parents. Oldest children in teens when marriage effectively ended, following mother's commencement of relationship with 'alternative' [but non-Traveller] partner met on horticultural and ecology course. Mother began Festival attendance at that time, but continued to live in family house **with children and husband** for approximately one year, co-parenting the children. She later moved to flat in local area with partner, co-parenting the children in their home on a daily basis, sometimes taking the two younger children to festivals and Travelling with her.

Relationship with partner broke down, and Lucy moved into vehicle, initially parked up on stable site, near housed friends. As living some distance from children saw them at weekends, and sometimes took younger ones to festivals, Travelling etc. Continued in this way for approximately one year, then decided that needed to sort out circumstances re: selling matrimonial property, or moving into it, as purchased by her parents for family. Oldest two children had by now left home, one to go to college, other to live with partner.

Sought legal advice at recommendation of Traveller friends and solicitor advised Lucy to move back into house to re-establish her residence in property, then apply for custody of children and decide whether to sell house, etc. Lucy returned to the house, and experienced no objections from her former husband, although they did not speak to each other at all.

A few days after moving in, Lucy was presented with husband's application for residence of children. Case proceeded whilst both parties living in same house, as Lucy didn't want to move out as she was concerned over securing her rights to the premises.

Residence of two youngest children (then aged 14 and 11) and possession of house granted to husband. Lucy ordered to move out of premises. Found house locally through Traveller friends, and two of her older children moved in with her. 14 year old "*voted with his feet*" shortly afterwards and joined rest of family. Youngest child stayed with father, frequent contact between child, siblings and mother. Father then involved in financial improprieties leading to police investigations, bankruptcy, and sale of house. Youngest child eventually came to live with mother after further eighteen months.

Mother and two youngest children Travel seasonally, older children now all away from home. Mother planning to Travel with children on Continent, but concerned about possible legal repercussions as residence order (to father) still exists on youngest child, now aged 13.

Box A6.8 Case study of Residence dispute over Informant and children becoming nomadic

REBECCA:

Informant conventionally married and housed with two children. Husband businessman. Relationship deteriorated as couple grew apart over politics and philosophies. Rebecca increasingly *'fed up with the system'*. Had attended occasional events such as WOMAD (although not with husband), and as relationship was ending began to go to more festivals with the children and women friends. Marriage ended at Rebecca's request. No formal residence proceedings took place, and the children remained with mother in matrimonial home, (mortgage paid by father) with contact every weekend and at holidays. Rebecca became increasingly involved in charity work with organisations such as Greenpeace, etc. and through growing ecological awareness and mixing with Travellers at events and festivals, decided that she wished to become nomadic.

Travelled seasonally for two years with limited hostility to their lifestyle from the father, *"he didn't really react too much just to going camping and to festivals, but he didn't like it when we no longer lived in a house and did the normal things"*. Rebecca then decided to sell the matrimonial home as they were away for most of the summer, and moved into rented accommodation for the winter with her children. Over the winter she felt that it was time to move towards becoming a full-time Traveller. *"I'm just like 'no, I can't do this any more'got the house clearance people to come clear the house, got home one day, had nothing left, didn't own anything, went to India, came back and didn't have anywhere to live"*

On returning to England the family became fully nomadic, living on a stable site for a while, then Travelling over the summer, and once more moving to the continent for the Winter season. The children saw their father fairly regularly for about six or seven months but he failed to visit on sites on more than one or two occasions. Rebecca had to drive to the father (and new stepmother's home) on alternate weekends, and also collect the children at the end of the weekend. Following an incident where her daughter came back distressed from a week's holiday with the father and stepmother, *"they were saying it was wrong for me to live this kind of life....and dressing*

[daughter] up in pretty little frocks and bows in her hair [which she disliked intensely]" Rebecca stopped contact, moving abroad shortly afterwards.

The children did not see or hear from their father for 18 months *"he didn't know where we were"*. On returning to England after a winter abroad, Rebecca moved the children into a house for three months prior to seasonal Travelling. A few days prior to going out on the road, Rebecca was issued with a summons for residence and a prohibited steps order to stop her removing the children from the jurisdiction. The father had tracked her down through the Benefits Agency. The family remained housed for the duration of the first residence case (five months) although they attended a few weekend festivals. Just prior to interview an interim residence order had been awarded to Rebecca with regular contact to the father. Rebecca has now given up the house and begun Travelling again, although she was unsure what will occur at the next hearing.

Box A6.9 Case study of nomadic mother failing to engage with law in residence dispute with settled former partner

JAMMY:

Jammy has Travelled 'on and off' for the majority of her adult life, spending occasional periods of time in houses. She has never married and has five children by different fathers. Her oldest child was born when the informant was in her late teens (she is currently aged 40) and the youngest child is aged six. Jammy Travelled abroad for approximately ten years, prior to returning to England. She lived with the fathers of two of her children in short-term contingent cohabitation relationships, and settled briefly during three child-bearing relationships. The fathers of none of her children are Travellers, and this would appear from the narrative to relate to Jammy's wish to retain her autonomy and avoid on-going relationships with the fathers.

"I had the kids because I wanted kids, not because of any relationship with the father"

The father of her oldest daughter is dead, and apart from her fourth child (the son who is the subject of the residence case) none of the children are in contact with their other parent. Although initially her son's father raised no objection to Jammy's Travelling, some time after separation, the boy's father, at the urging of his parents began to insist that she should settle or allow the child to live with the paternal parents. Contact was on-going between the child and his father when Jammy was in the locality and the boy occasionally stayed with his father and paternal grandparents. On an occasion when the child was staying with his father for a contact visit, he was not returned, and Jammy was notified that *"they wanted solicitors to take him off me"*.

Jammy refused to take legal advice, and did not offer an explanation for this decision beyond citing her mistrust of the legal system and concerns that her other children might be removed from her care.

"I just refused to go [so see lawyers or to court] I wouldn't deal with it through legal whatsit to be honest with you, I just wouldn't... I don't trust them to be honest, I don't, and it's not my way of doing things" (emphasis in the original)

The boy now lives with his father and Jammy has limited contact with him when *"it suits for him [father]"*. At the time of interview, Jammy's son was resident on site with the rest of the family for the first time in four years, but she envisages him returning to live with his Travelling relatives when he is older. All of the children apart from Jammy's oldest son (who is also fully nomadic) Travel together, with one daughter retaining a separate vehicle.

Box A6.10 Case study of male lone parenthood following casual conception

ANDY:

Informant had Travelled from late teens. Came off the road after meeting (Festival going) partner who was ill with inherited disease. Andy *"did the settling down, got a job, mortgage, all the rest of it"* for several years. When partner's health declined to stage where she had a few weeks to live the couple married, and made plans for informant to go back on the road again.

"all the time, we knew, me and my wife, that she would die before me and its such a horrible thing...so yeah, we said as soon as it goes a bit pear-shaped – back on the road"

A few weeks after his wife's death, just prior to leaving the matrimonial home, Andy had a casual sexual encounter with an old friend of the couple. *"drink, drink, drink you know how it happens, but then as soon as I found out she was pregnant - you do your best"*.

The couple attempted to live together in the house for a week and then a fortnight on the road. When it became clear that no viable relationship could exist, Andy allowed the mother to remain in the former matrimonial home and continued to pay the mortgage by working in the locality. When the baby was born the couple commenced shared parenting, but by the time the baby was a few months old *"her mother wanted to go to work, so [baby] stayed with me"*.

Andy cares for the child with the assistance of other people on site, who help with child-care so that he can work as a mechanic. He is adamant that he would not return to living in a house as he and the baby would be isolated *"me neighbours don't like me, we've got nothing in common – you know, straight types, and they don't like me vehicles, and I can't do the parent and toddler groups"*.

Andy's deceased wife's family are extremely supportive of his decision to remain on the road with the baby, and have checked out his legal status vis a vis the child, on his behalf. The maternal grandmother also keeps in contact with the baby, often having her for a few hours when Andy is on a site near to the town where they live.

Andy's mother, although disapproving on his Travelling with a child, sees them at her house fairly regularly. Although the baby's mother has occasional contact with the child, this is mainly at Andy's insistence, as she will not come to site unless he collects her or takes the baby to her home. On occasion Andy has attended at the mother's home to find that she is out, or has '*forgotten*' she should be seeing the child.

Because of his settled family connections, Andy attempts to stay on sites near to his former home so that the wider family can remain in contact with the child. However, due to a spate of evictions just prior to interview, contact had been severely disrupted, with Andy and his site companions – with whom he usually Travels – having been evicted around nine times in a three week period.

At the point of interview the group were resident on a site hidden away on farmland, where they had been allowed a few days breathing space by the farmer. Andy was outraged that he should be forced to continually move on from his own home county, but insists that he will not go back into housing as he feels that Travelling is better for his psychological health, and hence for the child.

Other reasons for not wishing to move into settled accommodation hinged on the lack of work opportunities in the immediate locality, and limited availability of child care. Andy believes if he was living in a house he would be unlikely to be able to work as a freelance mechanic and would therefore become dependent on social security, possibly attracting unwanted attention as a "*single father*" (see Chapter 6 for examples of lone fathers and social services intervention) .

He also expressed concerns around his lack of legal status in his daughter's life and is worried that his former partner might decide she wants the child back at some point *"when she is a bit older, and potty trained... and if it goes to court, these straight people will look at me, and see the dreads and tattoos...I don't think it would be good, it would go in favour of her mum just 'cos she's working and lives in a house"*

Box A6.11 Case Study of community assistance when incidence of domestic violence

KATIE:

Informant was a lone parent in possession of her own vehicle when she began her second parenting relationship. Planned pregnancy occurred eight months into the relationship. At all times the informant retained her own truck, and financial independence from her partner *"I spent months going I do not want to live with you"*.

Following his bender's destruction, father (b) moved into Katie's vehicle and within a few months the relationship had deteriorated badly. *"he swapped my truck and £500 of my money for a bus.... I'd been away for three weeks and when I came back he'd done it. I was seven months pregnant and this bus still had the seats in it and nothing in it at all. It was November and all the windows were bare.... it was like living on a building site and with a five year old and seven months pregnant it was all a bit shitty. And then he completely lost the plot five weeks before I had [the baby] and smashed all the stuff... smashed it up and kicked us out at six o' clock in the morning, no shoes on, nothing at all"*

Katie and her older child were taken to safety by other Travellers, who subsequently contributed money to pay for a large tow truck to remove her bus to a 'safe site'. Once settled on site, Katie was assisted with vehicle repairs and given a stack of 'Big Issue' magazines to sell to ensure that she was financially self-supporting. Her ex-partner did attempt to visit her at her new park-up but *"he wasn't made welcome there, and I made him go away"*.

Although the father was on site for the birth of their child and remained in the locality and in contact for some weeks, Katie left the area approximately three months after the birth of her son. The father remained in contact with their child for approximately a year after tracing the family to a new site, but his by now persistent drug use and periodic aggression meant that Katie decided the relationship was unsustainable. She terminated contact and considers the relationship closed.

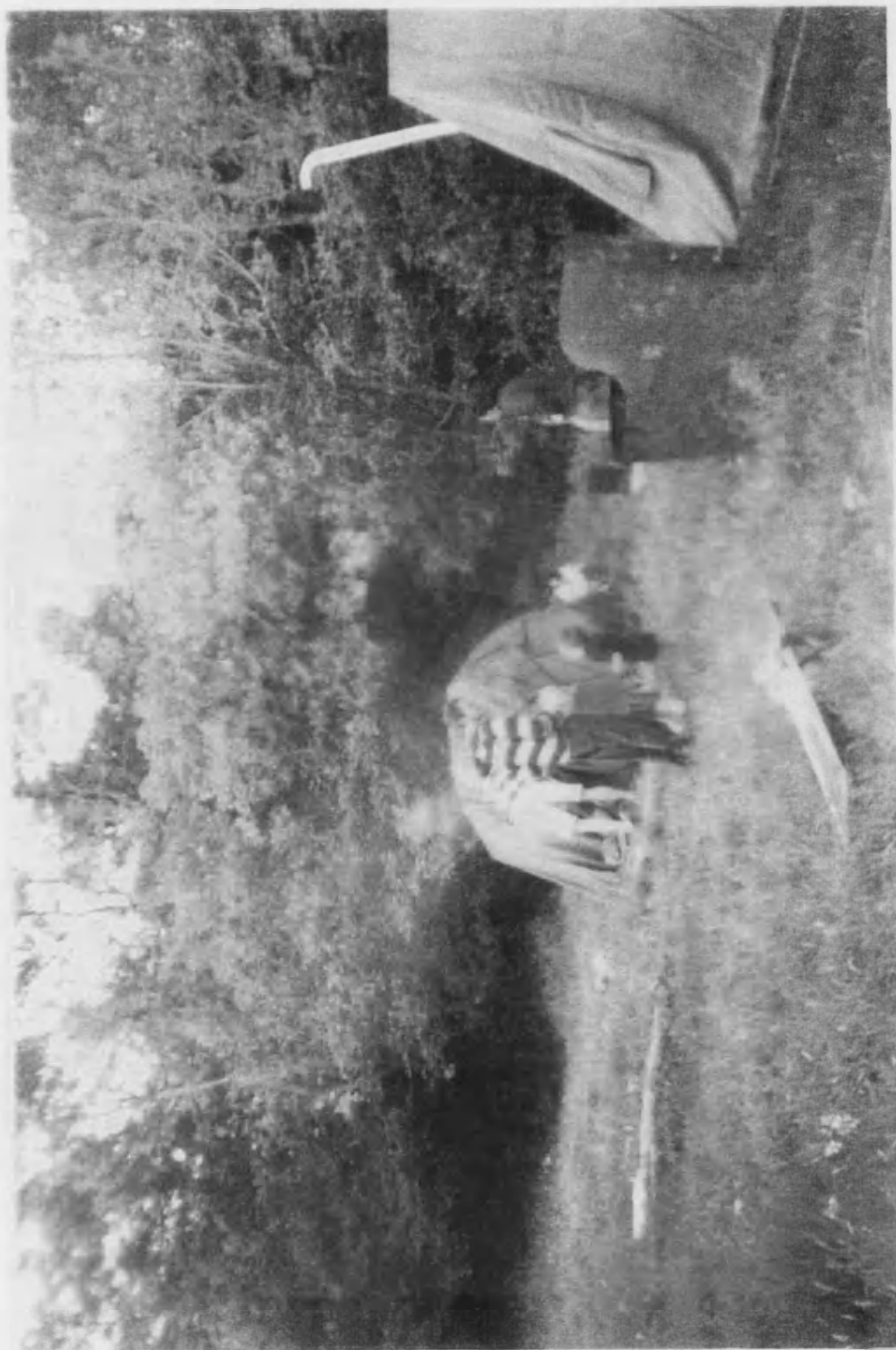
"I've got it alright in my head that that was what he was doing before he met me, and now he's happy doing that, or whatever he wants to do and that's his trip and I'm back up here"

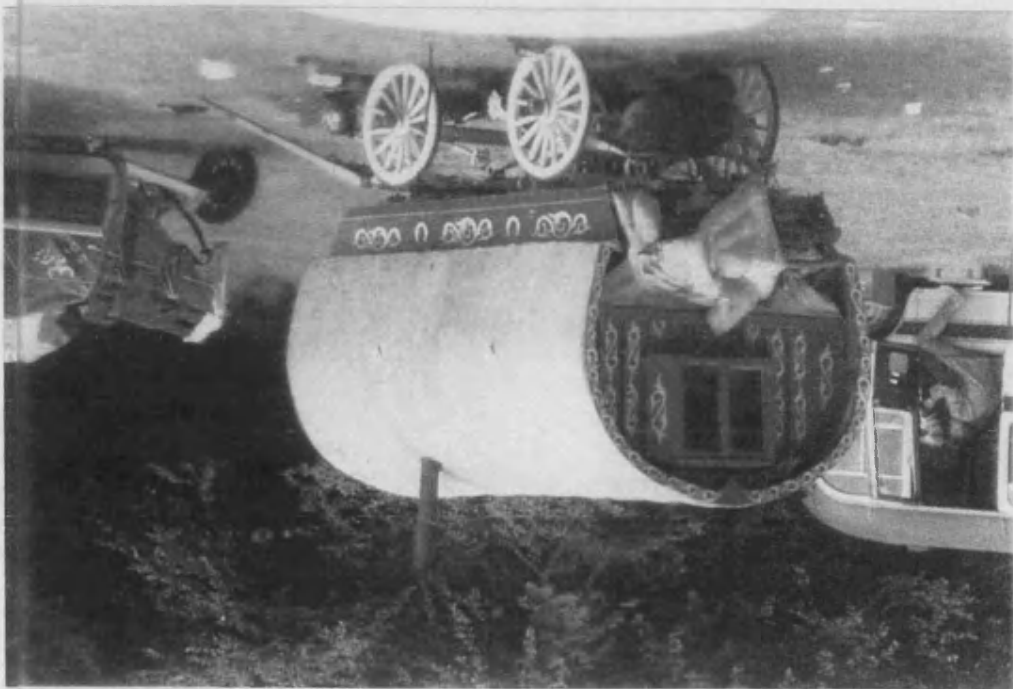
Given Katie's persistent attempts to make the parenting relationship work, her site companions have recognised that ending contact is a protective measure for her family. She is therefore not subjected to pressure in respect to the father's relationship with her toddler.

APPENDIX 7

A selection of photographs of Travellers and site-life









BIBLIOGRAPHY

Abela, C. & Borg, V. **"Ethnic Diversity and children's rights: recognition of culture in law and practice, with particular reference to the Family Law Court of Australia"** Discussion Paper, Melbourne, Australia, 1998

Aboriginal and Torres Straits Islanders Women's Task Force on DV **"Causes and contributing factors"** 2000, www.indigenous.qld.gov.au/PDF/taskforce

Adler, P. **"The 'post' phase of deviant careers: reintegrating drug traffickers"** in 'Deviant Behavior' Vol. 13, pp103-26, 1992 (cited in Ellis, C. 1995 op. cit.).

Adler, P. & Adler, P. **"Criminal Commitment among Drug Dealers"** in 'Deviant Behaviour' Vol. 3, pp117-135, 1982

Adler, P. & Adler, P. **"Membership Roles in Field Research"**, Sage, 1987

Adler, P. & Adler, P. **"Ethical Issues in Self-Censorship"** in 'Researching Sensitive Topics', Lee, R. & Renzetti, C. (eds.), Sage, 1993

Adler, P. & Adler, P. **"Observational techniques"** in 'Handbook of Qualitative Research' Denzin, N. and Lincon, Y. (eds.) Sage, 1994

Advisory Board on Family Law, **"Court Procedures for the determination of paternity"**, LCD, 1998

Allen, N. **"Making Sense of the Children Act" (Third Edition)**, John Wiley & Sons, London, 1998.

Altheer, D. **'Thunderer' Column**, The Times, 11/10/02

Anderson, L. **"Contact between children and violent fathers: in whose best interests?"** Rights of Women, 1997

Anderson, M., **"Family Structure in 19th Century Lancashire"** Cambridge University Press, 1971

Arber, S. & Ginn, J. **"Gender Differences in Informal Caring"** (1995) in "The Sociology of the Family: a reader" ed. Allan, G., Blackwell, 1999

Arrigo, B. **"Shattered Lives and Shelter Life: anatomy of research deviance in homeless programmes and policy"** in Ferrell, J. and Hamm, M. (eds) 'Ethnology on the edge: crime, deviancy and field research', North East University Press, 1998

Arthur, S; Lewis, J; Maclean, M; Finch, S & Fitzgerald, R. **"Settling Up: making financial arrangements after divorce or separation"** National Centre for Social Research, 2002

Atkins, K. **"Ethnicity & parenting: a review of literature and investigation based on secondary analysis"** JRF research in progress report, 2001
<http://www.jrf.org.uk/knowledge/wip/record.asp?ID-801109>

Auckland, R. **"Travellers' School Charity: research report"** 2000

Bainham, A. **"Children - The New Law (The Children Act 1989)"** Family Law, 1990

Bainham, A. & Cretney, S. **"Children - the Modern Law"** Family Law, 1993

Barker, R. **"Lone fathers and masculinities"** Avebury, Aldershot, 1994

Barley, N. **"The Innocent Anthropologist"**, Penguin, 1986

Barlow, A., Bowley, M., Butler, G., Cox, L., Davies, M., Gryk, W., Hamilton, A., Smith, P. and Watson, M. **"Advising Gay & Lesbian clients: a practical guide for lawyers"** Butterworths, London, 1999

Barlow, A; Duncan, S; James, G. & Park, A. **"Family Matters: Cohabitation, Marriage and the Law"** Nuffield Foundation, 2002

Barnes, J. **'Some Ethical Problems in Modern Fieldwork'** in 'British Journal of Sociology' Vol. 13, pp118-134, 1963

Barrow, C. **"Family in the Caribbean: themes and perspectives"** Ian Randle Publishers, Kingston, Jamaica 1996; *cited* in Chamberlain, 1999 op. cit.

Barry, C. **"Identity-Identities and Fieldwork : studying homeopathy and tai chi 'at home' in South London"** in 'Anthropology Matters Webjournal' May 2002
www.anthropologymatters.com/onlinejournal/ChristineBarry.htm

Batchelor, J., Dimmock, B., & Smith D. **"Understanding Stepfamilies"** Stepfamily Publications, 1994

Baxter, J. **"Marital status and the division of household labour"** in "Family Matters" Australian Institute of Family Studies, No. 58, Autumn, 2001

Baylies, C. **"Diversity in patterns of parenting and household"** in Silva, E (ed) 'Good Enough Mothering? Feminist perspectives on lone motherhood', Routledge, 1996

Beck, U **"Risk Society: Towards a New Modernity"** Sage, 1992

Beck, U & Beck-Gernsheim, E **"The Normal Chaos of Love"**, Polity Press 1995

Becker, H. & Geer, B. **"Participant Observation: The Analysis of Qualitative Field Data"** in 'Field Research: A Sourcebook and Field Manual', Burgess, R. (ed), Allen & Unwin, 1982.

Beishon, S. Modood, T. & Virdee, S. **"Ethnic Minority Families"** Policy Studies Institute, London, 1998

Benkov, L. **"Reinventing the family: the emerging story of lesbian and gay parents"** Crown, New York, 1994

Benney, M & Hughes, E. **"Of sociology and the interview"** in 'Sociological Research Methods' ed. Bulmer, M., Macmillan, 1984

Bergen, R., **"Interviewing Survivors of Marital Rape"**, in 'Researching Sensitive Topics' Lee, R. & Renzetti, C. (eds.), Sage, 1993

Berthoud, R., McKay, S. & Rowlinson, K. **"Explaining the growth of lone parents in Great Britain"** ESRC outputs, 1998
<http://www.regard.ac.uk/outputs/htm>.

Birmingham Evening Mail, (editorial) **"They call themselves...itinerants, new age travellers, we call them parasites"** 29/06/97;

Bloor, C. **"Notes on member validation"** in 'Contemporary Field Research' Emerson, R. (ed). pp156-72, Little Brown, 1983 (cited in Ellis, C. 1995 op. cit).

Bondesan, U. **"Prisoners in prison society"**, Transaction Publications, 1989

Booth, W. **"Asking America about it's sex life"** in 'Science', No. 243, p304, Jan. 1989

Boruch, R. & Cecil, J. **"Assuring the Confidentiality of Social Research Data"**, University of Philadelphia Press, 1979

Bornat, J., Dimmock, B., Jones, D. & Peace, S. **"Generational Ties in the 'new family': changing contexts for traditional obligations"** in 'The 'New' Family' eds. Silva, E. & Smart, C., 1999

Bourdieu, P. **"Symbolic Power"** in 'Critique of Anthropology' 4: pp 75-88, 1979

Bourdieu, P. **"What makes social power? On the theoretical and practical existence of groups"** in 'Berkeley Journal of Sociology', pp1-17, 1989(a)

Bourdieu, P. **"Social Space and Symbolic Power"** in 'Sociological Theory' 7: pp14-25, 1989(b)

Bourdieu, P. **"In other words: essays towards a reflexive sociology"** trans. Adamson, C., Polity Press, 1990

Bowles, S. **"Social Capital and Community Governance"** Dept. of Economics Seminar paper, University of Massachusetts, 1999 www.univ.oit.umass.edu/~bow

Bradshaw, J & Millar, J. **"Lone Parent Families in the UK"**, Dept. of Social Security Research Report, No. 6. HMSO, 1991

Bradshaw, J., Stimson, C., Skinner, C. & Williams, J. **"Absent fathers?"** Routledge, 1999

Brannen, J. **"The study of Sensitive Subjects"** in 'Sociological Review', Vol. 36, pp552-563, 1988

Bredemier, H. & Stephenson, R. **"The Analysis of Social Systems"**, Holt, Reinhart and Winston, 1962 (cited in Pollinger, K. & Pollinger, A. 'Community Action and the Poor: influence v. social control in a New York City community' Praeger Publishers, 1972)

British Association for Adoption and Fostering, **"A Very Private Practice"**, BAAF, 2001

British Association of Social Workers **"Racism and social work practice: time for a change"** Conference Proceedings, BASW, Birmingham, 1987

The British Crime Survey **"Domestic Violence Statistics"**, The Home Office, 2000
www.homeoffice.gov.uk/rds/pdfs/r36.pdf & for entire BCS see:
<http://www.homeoffice.gov.uk/rds/index.htm>

British Medical Association **"Domestic Violence: a health care issue"** BMA, London, 1998

Bryson, A., Ford, R., & White, M. **"Making Work Pay. Lone Mothers, Employment and Well-Being"** Joseph Rowntree Foundation, 1997

Buchanan, A., Hunt, J., Bretherton, H. & Bream, V. **"Families in conflict: perspectives of children and parents on the family court welfare service"** in 'Family Law Journal' pp.900-903, December, 2001

Buchanan, D., Boddy, D. & McCalman, J. **"Getting in, getting on, getting out and getting back "** in 'Bryman, A. (ed). 'Doing research in organisations', Routledge, 1988

Bulmer, M. (ed.), **"Social Research Ethics"**, Macmillan, 1982

Burbidge, A **"Towards a history of the self-reliant family in Australia"**, 1998
www.aifs.org.uk/institute/afrc6papers/burbidge.html

Burgess, L., Clarke, L. & Cronin, N. **"Fathers & fatherhood in Britain"** Family Policy Studies Centre, London, 1997

Burgess, R. **"In the Field: an introduction to field research"**, Routledge, 1991

Burghes, L. **Supporting our children: the family impact of child maintenance**
Family Policy Studies Centre, London, 1991

Burr, R. **"Shaming of the anthropologist: ethical dilemmas during and in the aftermath of the fieldwork process"** in 'Anthropology Matters Webjournal, April 2002 www.anthropologymatters.com/onlinejournal/RachelBurr.html#Singer

Buxton, A. **"The other side of the closet"** John Wiley & Sons, New York, 1994

Cahn, C **"Nexus: Domestic Violence: Rom courts and recognition"**, 1999
www.ercc.org/rr_nrl

Canadian Justice Department **"Alternative Dispute resolution in a multicultural setting"**, 1998 www.canada.justice.gc.ca/en/dept/pub/eg/ethno89.wp

Caplan, A. **"On Privacy and Confidentiality in Social Science Research"** in 'Ethical Issues in Social Science Research', Beauchamp, T., Faden, R., Wallace, R. & Waters, L (eds), John Hopkins University Press, 1982

Cemlyn, S **"Policy & Provision by Social Services for Traveller Children and Families"** University of Bristol/Nuffield Foundation, 1998

Cemlyn, S. **"Assimilation, control, mediation or advocacy? Social Work dilemmas in providing anti-oppressive services for Traveller children and families"** in "Child and Family Social Work" Vol. 5, pp327-341, 2000(a)

Cemlyn, S. **"From neglect to partnership? Challenges for social services in promoting the welfare of the Traveller child"** in 'Child Abuse Review' Vol. 9, 349-363; 2000(b)

Chamberlain, C. **"Helping the homeless: lessons from 'Down Under': social characteristics of the homeless population"**: conference address - 'Safe in the City Conference', London, organised by the 'UK Government Rough Sleepers Unit' (25/6/2001)

Chamberlain, M, **"Family narratives and migration dynamics"** *cited* in Silva & Smart (eds.) 'The 'new' family?' Sage Publications, 1999

Chamberlain, M. **"Brothers & Sisters, Uncles & Aunts: A Lateral Perspective on Caribbean Families"** in "The 'new' Family?" ed. Silva, E., & Smart, C., Sage Publications, 1999

Chamberlain, M & Goulbourne, S. **"New perspectives on Caribbean families"** *cited* in 'The 'new' Family?' ed. Silva & Smart, Sage Publications, 1999
www.regard.ac.uk/outputs/htm

Child Support Agency, **"The First Two Years: annual report for 1993/4 and business plan for 95/96"** HMSO, London, 1994

Child Support Agency website **"what's new"**, <http://www.csa.gov.uk/csr/csr1s.htm>
February, 2002

Children Legal Centre, **"Report on the Children's Legal Centre contact dispute line"** (French, M., Hamilton, C. & Pringle, D.) Children's Legal Centre, University of Essex, 2000

Cicchetti, D. & Rizley, R. **"New Directions for Child Development: perspectives on child maltreatment"** Jossey-Bass Publishers, 1987

Cicourel, A. **"The social organisation of juvenile justice"** Heinemann, 1974

Clark, C. **"'New Age' Travellers: Identity, Sedentarism & Social Security"** in **"Gypsy Politics & Traveller Identity"** ed. Acton, T., University of Hertfordshire Press, 1997

Clark, C. and Dealing, A. **"Romanies, Gypsies, Travellers or Nomads – what's in a name?"** in **"Criminal Justice Matters"**, December 1999
<http://www.tsct.co.uk/publications/other-docs/ColinAlanCJA.rtf>

Clark, C. & Dearling, A. **"Ethnicity, Nomadism & 'Traveller' Identity: in pursuit of common ground?"** in **"Social Work In Europe"** Vol. 7, No. 1; pp42-50, 2000

Clark, D. & Haldane, D. **"Wedlocked?"**, Polity Press, 1990

Clarke, K., Craig, G. & Glendinning, C. **"Children Come First? The Child Support Act and lone parent families"** Barnardo's, The Children's Society, NCH Action for Children, NSPCC & Save the Children, 1993

Clarke, K., Craig, G. & Glendinning, C. **"Losing Support: Children and the Child Support Act"** The Children's Society, London, 1994

Clarke, K., Craig, G. & Glendinning, C. **"Small Change: The impact of the Child Support Act on lone mothers and children"** Family Policy Studies Centre, London, 1996

Clausen, J. **"To live outside the law you must be honest: a flommy looks at lesbian parenting"** in Pollack, S. & Vaughn, J. (ed.) **"Politics of the Heart: an anthology of lesbian parenting"** Firebrand Books, New York, 1987

Cochran, M; Larner, M., Riley, D., Gunnarsson, L & Henderson, C. **"Extending families: the social networks of parents and their children"** Cambridge University Press, 1993

Code, L. **"Epistemic responsibility"** University Press of New England, USA, 1987

Collier, R. **"Masculinity, Law & and the Family"** Routledge, 1995

Commission on Children and Violence convened by the Calouste Gulbenkian Foundation **"Children and Violence"** Calouste Gulbenkian Foundation, 1995

Community Policing Consortium **"To protect and serve: an overview of community policing on indian reservations"** Monographs: CPC, undated http://www.communitypolicing.org/pf/am_ind.htm

Connell, R. W. **"Masculinities"** Polity Press, Cambridge, 1995

Conway, H. **"Implacable Hostility: seeing a breakthrough"** in 'Family Law' pp109-111, Vol 27, 1997

Cook, J. & Fonow, M. **"Knowledge and Women's interests: Epistemology and methodology in feminist sociological research"** in 'Sociological Inquiry' Vol. 56, pp2-29, 1984

Cohen, S. & Taylor, L. **"Psychological Survival: the experience of long-term imprisonment"** Pelican, (2nd ed.), 1981

Cowan, C. **"Dance and the Body-Politic in Northern Greece"**, Princeton University Press, 1990

Counts, D., Brown, J., & Campbell, J. (eds.) **"Sanctions and Sanctuary: cultural perceptions on Domestic Violence"** Westview Press, 1992

Craig, G., Corden, A., & Thornton, P. **"Social Research Association Code of Practice for the Safety of the Social Researcher"** 2002, www.the-SRA.org.uk/safe.htm

Craig, J. **"It'll just be percentages, won't it?" – the Solicitors Family Law Association, Child Support Agency Network"** in 'Family Law', Vol. 32, p69, 2002

Crane, P. Brannock, J. Ray, L. Campbell, J. Smeal, G. & Atwuh, B. **"Homelessness among young people in Australia: prevention and early intervention - a report to the National Youth Affairs Research Scheme"**, Australian Clearinghouse for Youth Studies, Hobart University, 1996

Crawley, M **"Traveller Women and their experience of Domestic Violence"**, Women's Aid Dublin, 1996

Cunneen, C **"Community Conferencing and the Fiction of Indigenous Control"** The Australian and New Zealand Journal of Criminology, Vol.30, No.3, pp292-311, 1998

David, M. Edwards, R. and Alldred, P. **"Children and School based Research: 'informed consent' or 'educated consent'?"** in 'British Educational Research Journal' Vol. 27, No. 3, pp347-365, 2001

Davies, E. **"Gypsies and Housing"**, Dept. of Environment, HMSO, 1987

- Davies, J. **"Tales of the Old Gypsies"** David & Charles, 1997
- Davis, J. **"New Age Travellers in the Countryside: Incomers with Attitude"** in **"Revealing Rural 'Others'"** ed. Milbourne, P., Pinter, 1997
- Davis, J.; Grant, R. & Locke, A. **"Out of Site, Out of Mind"** The Children's Society, 1994
- Davis, J. & Hoult, H. **"Travelling Families Health Needs"** in 'Health Visiting Specialist and Higher Level Practice: Chapter 17' (eds. Rowbotham, A & Sheldrake, D), Churchill Livingstone, 2000
- Dearling, A. **"No Boundaries"** Enabler Publications, 1998
- Dearling, A **"Almost Everything You need to know about the Travellers' School Charity"**, TSC, undated
- Dennis, N. **"Zero Tolerance: policing a free society"** Institute of Economic Affairs, 1997
- Dennis, N. & Erdos, G. **"Families without Fatherhood"** Institute for Economic Affairs, London, 1993
- Denzin, N. & Lincoln, Y. (eds.) **"Handbook of Qualitative Research"**, Sage, 1994
- Department of Health **"Domestic violence, a health response: working in a wider partnership"**, 2000
- Department of Health **"Private Fostering: a cause for concern"**, DoH, 2001
<http://www.doh.gov.uk/scg/privatefostering/booklet.pdf>
- DeRosia, V. **"Living inside Prison Walls"** Praeger Publishers, 1998
- Dey, I. **"Qualitative data analysis"**, Routledge, 1993 ('creating categories' pp94-112).
- Dey, I & Wasoff, F. **"Duty & the Bad Dad: reflections on 'good enough' parenting by non-resident fathers"** paper presented to the Social Policy Association, Annual Conference, London, 20/7/2000
- Dixon, P. **"The Rising Cost of Love"**, Stodder & Houghton, 1995
- Diversity Resources **"Culturally Sensitive Health Care: American Indian"**, 2002
<http://www.diversityresources.com/rc22/indian.htm>
- Dobash, R. & Dobash, R. **"Women , Violence and Social Change"** Routledge, 1992

Dobash, R., Dobash, R., Cavanagh, K. & Lewis R. **"Changing Violent Men"**, Sage, 2000

Douglas, J. **"Investigative Social Research"**, Sage, 1976

Dunn, J. & Deater-Deckard, K. **"Children's Views of their changing families"** Joseph Rowntree Foundation, 2001

Earle, F., Dearling, A., Whittle, H., Glass, R. & Gubby **"A Time To Travel"** Enabler publications, 1994

Edwards, R. **"Evaluation of the Dept. of Health's new Under Fives Initiative lone parents' project"** National Children's Bureau, London, 1992

Edwards, R. **"An education in interviewing"** in 'Researching Sensitive Topics', Lee, R. & Renzetti, C. (eds.), Sage, 1993

Eekelaar, J. **"The Emergence of Children's Rights"** in 'Oxford Journal of Legal Studies', Vol. 6. pp161-182, 1986

Elliott, B. & Richards, M. **"Children and Divorce: educational performance and behaviour, before and after parental separation"** in 'International Journal of Law & the Family', Vol. 5, pp258-276, 1991

Ellis, C. **"Emotional and Ethical quagmires in returning to the field"** in 'Journal of Contemporary Ethnography' Vol. 24, No. 1, pp68-98, 1995

Ellis, J. (ed.) **"West African Families in Britain: a meeting of two cultures"** Routledge & Kegan Paul, 1978

Emerson, R. (ed) **"Contemporary Field Research: a collection of readings"** Waveland Press, 1988

Emerson, R. & Pollner, M. **"On the Uses of Members' Responses to Researchers' Accounts"** in 'Human Organisation' Vol. 47, pp656-63, 1988 (cited in Ellis, C. 1995 op. cit).

Etzioni, A. **"Corporate Analysis of Complex Organisations"** Free Press, 1964

Evans Pritchard, E. **"Witchcraft, Oracles and Magic among the Azande"**, Clarendon, 1937

Evans Pritchard, E. **"The Nuer"**, Clarendon, 1940

Evans Pritchard, E. **"The Position of Women in Primitive Societies and other Essays in Social Anthropology"**, Hamish Hamilton, 1965

- Evans Pritchard, E. **"The Condition of Liberty: civil society and its rules"**, Hamish Hamilton, 1974
- Evans Pritchard, E. **"Nationalism"**, Weidenfeld and Nicholson, 1997,
- Families Need Fathers **"Response to LCD discussion paper on Parental Responsibility"**, FNF, 1998
- Fenton, F. **"Ethnic Diversity – challenges for courts"** paper given at 3rd National Family Court Conference, Melbourne, Australia, October, 1998
- Ferri, E. **"Stepchildren: a national study"** Nfer-Nelson, 1984
- Fielding, N. **"Observational Research on the National Front"** in 'Social Research Ethics', Bulmer, M. (ed.), Macmillan, 1982
- Fielding, N. **"Mediating the Message: affinity & hostility in research on sensitive topics"** in 'Researching Sensitive Topics' Lee, R. & Renzetti, C. (eds.), Sage, 1993
- Finch, J. **"Its great to have someone to talk to': the Ethics and politics of Interviewing Women"** in 'Social Researching', Bell, C. and Roberts, H. (eds) Routledge and Kegan Paul, 1984
- Finch, J., **"Family Obligations & Social Change"** Polity, 1989
- Finch, J. & Mason, J. **Negotiating Family Responsibilities"** Tavistock, 1993
- Fine, G. **"With the Boys"** University of Chicago Press, 1987
- Fonesca, I **"Bury Me Standing: the Gypsies and their Journey"** Knopf Press, 1995
- Fowler, B. **"Pierre Bourdieu and Cultural Theory: critical investigations"** Sage, 1997
- Fox Harding, L. **"Parental responsibility': the reassertion of private patriarchy"** in 'Good Enough Mothering' ed. Silva, E., Routledge, 1996
- French, M. **"Loves, Sexualities & Marriages: strategies and adjustments"** in 'Modern Homosexualities: fragments of lesbian and gay experience' ed. Plummer, K., Routledge, 1992
- French, M., Hamilton, C. & Pringle, D. **"Report on the Children's Legal Centre contact dispute line"** Childright, 2001
<http://www2.essex.ac.uk/clc/hi/childright/article/005.htm>
- Friends, Families & Travellers Support Group, **"Confined, Constrained and Condemned: civil rights and Travellers"** FFT, 1996

Galimeier, C. **"Leaving, Revisiting, and Staying in Touch: Neglected issues in field research"** in 'Fieldwork an Inside View of Qualitative Research', Shaffir, W. and Stebbins, R. (ed)., Sage, 1991

Garnham, A. & Knights, E. **"Putting the Treasury First?: the truth about Child Support"** Child Poverty Action Group, London, 1994

Genn, H. **"Paths to Justice: what people do and think about going to law"** Hart Publishing, 1999

Gerlis, S. DJ, **"Talking Shop: Contact – pernicious poison"** in 'Family Law', Vol. 28, p695, 1998

Gerlis, S. DJ, **"Talking Shop: Contact – name your poison"** in 'Family Law', Vol. 32, p68, 2002

Ghate, D., Shaw, C. & Hazel, N. **"Fathers and Family Centres: engaging fathers in preventative services"** Joseph Rowntree Foundation, 2000

Giddens, A. **"The Transformation of Intimacy"**, Polity Press, 1992

Giddens, A. & Pierson, C. **"Conversations with Anthony Giddens: making sense of modernity"** Polity Press, 1998

Gilbert, N. (ed) **"Researching Social Life"**, Sage, 1992

Gittins, D., **"The Family In Question: changing households, and familiar ideologies"** Macmillan, 1993

Glaser, B. & Strauss, A. **"The discovery of grounded theory"** Aldine Press, Chicago, 1967

Glesne, C. & Peshkin, A. **"Becoming Qualitative Researchers: an introduction"** Longman, 1992, cited in Lewis, M. (1995) op. cit.

Gmelch, G. **"The Irish Tinkers"** Cummings Publishing Company, 1977

Goetz, J., & LeCompte, M. **"Ethnographic Research and the Problem of Data Reduction"** in 'Anthropology and Education Quarterly', Vol. 12, pp51-70, 1981.

Golombok, S. **"Adults raised as children in lesbian families"** in 'American Journal of Orthopsychiatry' 65, 2, 1997

Golombok, S. **"Parenting: what really counts"** Routledge, 2000

Goode, W. **"Women in Divorce"** New York Free Press, 1965

Graham, H. **"Surveying through Stories"** in Bell, C. and Roberts, H (eds) 'Social Researching', Routledge and Kegan Paul, 1984

Greenfield, S. **"English Rustics in Black Skin: a study of modern family forms in a pre-industrial society"** Connecticut College Press, 1966; cited in Chamberlain, 1999, op. cit

Greenfields, M **"Travelling Light: The Impact on Family Relationships of 'Going on the Road'"** Unpublished MSc Thesis, University of Bath 1999

Haman, R. & Bulmer, M. **"On the Merits of Covert Methods: a dialogue"** in 'Social Research Ethics', Bulmer, M. (ed.), Macmillan, 1982

Hammersley, M. **"Not bricolage but boatbuilding: exploring two metaphors for thinking about ethnography"** in 'Journal of Contemporary Ethnography', Vol.28, pp574-585, 1999

Hamner, J. & May, M. (eds) **"Women, Violence and Social Control"**, Routledge, 1987

Hansard **"Official House of Commons reports"** 2/2/1996; 3/5/2001
http://www.parliament.the_stationery_office.co.uk/pa/cm/cmhansard.htm

Hansard **"Official House of Lords reports"** 16/1/2001
http://www.parliament.the_stationery_office.co.uk/pa/ld/pdvn.htm

Harne, L. & Rights of Women (ROW) **"Valued families"** The Women's Press, 1997

Harrington, M. **"Care & Equality: inventing a new family politics"**, Knopf, 1998

Haskey, J. **"One parent families and their dependent children"** Population Trends 91. ONS, 1998

Hass, J. & Shaffir, W. **"Fieldworkers mistakes at work : problems in maintaining research and researcher bargains"** in 'Fieldwork Experience', Shaffir, W., Stebbins, R. and Turowetz, A. (eds); St. Martin's Press, USA, 1980

Hawes, D. **"Gypsies, Travellers and the Health Service. A study in inequality"** The Policy Press, 1997

Heinze, E. **"Sexual Orientation & International Law: a study in the manufacture of cross-cultural sensitivity"** in ' Discrimination and Toleration: New Perspectives', Hastrup, K. & Ulrich, G. (eds), Martimus Nijhoff Publishers, 2002

Hennick, M., Cooper, P. and Diamond, R. **"Primary Health Care Needs of Travelling People in Wessex"** University of Southampton/ Department of Social Statistics (Working Paper 95-01), 1993

Heritage, J., **"Garfinkel and Ethnomethodology"** Polity Press, 1984

- Hester, M., Malos, E. & Hague, G. **"DV and Children – a reader"** Barnados/Dept. of Health, 1999
- Hester, J. & Radford, L. **"Domestic violence and child contact arrangements in England and Denmark"** Joseph Rowntree Foundation, 1996
- Hetherington, K. **"Identity formation, Space and social centrality"** in 'Theory, Culture and Society' pp33-52, Vol 13, No. 4, 1996
- Hetherington, K. **"Expressions of Identity: Space, Performance, Politics"** Sage Publications, 1998
- Hetherington, K. **"New Age Travellers: Vanloads of Uproarious Humanity"** Cassell, 2000
- Hey, V. **"The company she keeps: an ethnography of girls' friendships"** Open University Press, 1997
- Hibbs, M., Barton, C. & Beswick, J. **"Why Marry? – perceptions of the affianced"** in Family Law, pp197-207, March, 2001
- Hirschi, B. **"Cases of delinquency"** University of California Press, 1969
- Holden, G., Gettner, R., and Jounles, E. (eds.) **"Children Exposed to marital violence"** American Medical Association, 1998
- Holden, G., Stein, J., Ritchie, K. Harris, S & Jounles, E. **"Parenting Behaviours and Beliefs of Battered Women"** in "Children Exposed to marital violence" Holden, G. Gettner, R and Jounles, E. (eds.) American Medical Association, 1998
- Home Office/Dept. Environment, Transport & Regions (DETR) **"Managing Unauthorising Camping: a good practice guide"** HMSO, October, 1998
- Home Office Research Papers (References to links between domestic violence and alcohol/drugs use), 2001 www.homeoffice.gov.uk/rds/pdfs/brf900.pdf
- Hopkinson, G., Ingram, M. & Wishart, B. **"Where's the real choice? What are the accommodation needs of Travellers in Wychavon?"** Evesham & Pershore HA Ltd/ The Housing Corporation/ University of Central England, Birmingham, 2001
- Humphreys, C. & Thiara, R. **"Routes to Safety: protection issues facing abused women and children"**, WAFE, 2002
- Humphreys, R. **"No Fixed Abode: a history of responses to the roofless and rootless in Britain"** Macmillan Press, 1999

Hunt, J. **"Family & Friends Care: a scoping paper prepared for the Dept. of Health"**, 2001

Ince, L. **"Meeting the placement needs of Black and Minority Ethnic Children and Young People"** in 'Kinship Care: the placement choice for children and young people' Broad, B. (ed), Russell House Publishing, 2001

Institute of Economic Affairs **"Charles Murray and the Underclass the Developing Debate"**, IEA, 1995

Jaffe, P., Wolfe, D. & Wilson, S. (eds) **"Children of Battered Women"**, Sage, 1990

John, M. (ed) **"A Charge against Society: the child's right to protection"** Jessica Kingsley Publishers, 1997

Johnson, J. **"Selecting Ethnographic Informants"** Sage, 1990

Kenrick, D. & Clark, C. **"Moving On. The Gypsies and Travellers of Britain"** University of Hertfordshire Press, 1999

Johnson, R. **"Examining the Validity Structure of Qualitative Research"** in 'Education', Vol. 118, No. 2, pp282-292, 1997.

Kagan, F. & Piper, C. **"Divorce and Domestic Violence"** in Sclater, S. & Piper, C. (eds.) 'Undercurrents of Divorce', Ashgate, 1999

Kelly, L. **"Surviving Sexual Violence"**, Polity Press, 1988

Kreuger, R. **"Focus Groups: A Practical Guide for Applied Research"**, Sage, 1988

Kroeber, A. **"The History and Personality of Anthropology"** in 'American Anthropologist', Vol. 61, pp398-404, 1959

Lambek, M. **"Like teeth biting tongue: proscriptions and practice of spousal abuse in Majotte"** in Counts, et. al. 1992 (op. cit.)

LaPrairie, C. **"Altering Course: new directions in criminal justice"** in 'The Australian and New Zealand Journal of Criminology, pp78-99, (Special Issue) 1995

Laslett, P., **"The History of the Family"**, in "Household & Family in Past Time" Laslett & Wall (eds), Cambridge University Press, 1972

Lee, G. **"The Newest Old Gem: Family Group Conferencing"** in 'Justice as Healing' Vol. 2, No. 2, 1997

Lee, R. & Renzetti, C. **"The problems of researching sensitive topics"** in 'Researching Sensitive Topics' Lee & Renzetti (eds.), Sage, 1993

Lee, S. **"Marital Rape and Marital Murder"** in Itzen, K., Hanmer, J., & Quaid, S. (eds) **'Home Truths about Domestic Violence: Feminist influences on policy and practice – a reader'**, Routledge, 2000

Lehti A & Mattson, B. **"Health, Attitude to care and Pattern of attendance among gypsy women – a general practice perspective"** in **'Family Practice'** Vol 18, No. 4, pp445-448, 2001

Lemon, A. **"Between Two Fires: gypsy performance and Romani memory from Pushkin to post-socialism"**, Duke University Press, 2000

Lewis, J. and Meredith, B **"Daughters who Care: daughters caring for their mothers at home"**, Routledge and Kegan Paul (cited in Edwards, R. 1993, op. cit.), 1988

Lewis, M. **"Focus Group Interviews in Qualitative Research: a review of the literature"** Action Research Electronic Reader (University of Sydney) <http://casino.cchs.usyd.edu.au/arow/reader/rlewis.htm> (1995)

Liegeois, J. **"Gypsies: an illustrated history"** Al Saqi, London, 1986

Lincoln, Y., & Guba, E. **"Naturalistic inquiry"** Sage, 1985.

Lloyd, G & Stead, J. **"The Boys & Girls Not Calling me Names, and the Teachers believing me': Name Calling and the Experiences of Travellers in School"** in **'Children & Society'** Vol.15, pp361-374, 2001

Lofland, J. **"Analysing social settings"** Belmont, USA, 1971

Lofland, J. **"Charting degrees of movement culture: tasks of the cultural cartographer"** in Johnston, H. & Klanderman, B. (eds) **'Social Movements and Culture'** University College Press, London, 1995

Lord Chancellor's Department **"Procedures for the Determination of paternity and the law on Parental Responsibility for Unmarried Fathers"**, Discussion Paper, HMSO, 1998 www.lcd.gov.uk/papers.htm

Lord Chancellor's Department **"Making Contact Work: A Consultation Paper"**, HMSO, 2000

Lord Chancellor's Department **"Judicial Statistics, 2000: Family Proceedings"**, 2001 www.lcd.gov.uk/statistics.htm

Lord Chancellor's Department Research Unit presentation: **"Diversity and the Courts"** Socio-Legal Studies Conference, April 2002

Lowe, R., & Shaw, W., **"Travellers: Voices of the New Age Nomads"** Fourth Estate, 1993

McCann, M., O'Siochain, S. & Ruane, J. **"Irish Travellers: culture and ethnicity"** Anthropological Association of Ireland, 1994

McCosker, H., Barnard, A. & Gerber, R. **"Undertaking Sensitive Research: issues and strategies for meeting the safety needs of all participants"** in Forum for Qualitative Social Research, 2001, <http://qual-research.net.html>

McKay, G. **"Senseless Acts of Beauty: cultures of resistance since the sixties"** Verso, 1998

McLaughlin, J. **"Gypsy lifestyles"** Lexington Books, 1980

McLeod, J. **"Qualitative Research as Bricolage"** paper for 'Panel on 'Qualitative inquiry in action: the researcher as bricoleur' at the Society for Psychotherapy Research Annual Conference, Chicago, 22nd June 2000

McNamara, L. **"Aboriginal Justice Reform in Canada: alternatives to state control"** in Hazlehurst, K. (ed.) 'Perceptions of Justice: issues of indigenous community empowerment' Avebury, 1995

McRae, S. **"Cohabiting Mothers: Changing Marriage and Motherhood?"** Policy Studies Institute, 1993.

McRae, S. (ed.) **"Changing Britain: families and households in the 1990s"** OUP, 1999

McVeigh, R. **"Theorising sedentarism: the roots of anti-nomadism"** in 'Gypsy Politics & Traveller Identity', University of Hertfordshire Press, 1997

Mac an Ghaill, M. **"The Making of Men: masculinities, sexualities and schooling"**, OUP, 1994

Mac an Ghaill, M. **"Contemporary Racisms and Ethnicities"**, OUP, 1999

Macleon, M. & Eekelaar, J. **"The Parental Obligation"**, Hart Publishing, 1997

Malinowski, B. **"Argonauts of the Western Pacific"** Bodley Head, 1922

Malinowski, B. **"The Sexual Life of Savages in North West Melanesia"**, Routledge, 1929

Malinowski, B. **"Magic, Science and Religion and other essays"**, The Free Press, 1948

Marashio, P **"Enlighten My Mind – examining the learning process through Native American ways"** in 'Journal of American Indian Education', Vol 21, No. 1, January 1982 <http://jaie.asu.edu/V21/V21S2enl.htm>

Marsh, A., Ford, R. and Finlayson, L. **"Lone Parents, Work and Benefits"** DSS Research Report No. 61. London: The Stationery Office, 1997

Martin, G. **"New Age Travellers: A study in Sceptical Sociology"** unpublished PhD thesis, 1997

Martin, G. **"Generational differences amongst New Age Travellers"** in 'The Sociological Review' Vol. 46, No. 4, pp 735-756, 1998

Martin, G. **"New Age Travellers: Uproarious or Uprooted"** in 'Sociology' Vol. 36, No. 3, pp723-735, 2002

May, T. **"Social Research: issues, methods and process"** Open University Press, 1997

Mayall, D. **"English Gypsies and State Policies"** The Interface Collection, University of Hertfordshire Press, 1995

MRCSA (South African Medical Research Council) **"MRC Newsletter June 2001"** www.mrc.ac.za/mrcnews/june2001/druglink.htm

Mehan, H. and Wood, H. **"The Reality of Ethnomethodology"**, John Wiley Publishers, 1975

Mezey, G. & Bewley, S. **"Explorations of prevalence and effects of domestic violence in pregnancy"** ESRC, 2000

Miller, B. **"Socio-legal Reform in the Aboriginal Context"**, Australian Government Papers, 2000 www.aic.gov.au/publications/proceedings

Millar, J. **"Poverty & The Lone Parent Family"** Avebury, 1989

Millar, J. **"State, Family & Personal Responsibility: The changing balance for lone mothers in the UK"** in "Feminist Review" 48, pp24-39, 1994

Millar, J. **"Establishing Family Policy in Britain?"** in "Family Matters" Australian Institute of Family Studies, No. 58, Autumn, 2001

Miller, B. and Humphreys, L. **"Keeping in Touch: Maintaining Contact with Stigmatised Subjects"**. In 'Fieldwork experience: Qualitative approaches to social research' Shaffir, W., Stebbins, R. & Turowetz, A. (eds.), St. Martin's Press, 1980 (cited in Ellis, C. 1995).

Millbank, J. **"Same Sex Couples and family law"** paper given at the 3rd national family court conference, Melbourne, Australia, October, 1998
www.familycourt.gov.au/papers/html/same_sex.html

Mirrlees-Black, C. & Byron, C. **"Domestic Violence: Findings for the BCS [British Crime Survey] self-completion questionnaire"** The Home Office, 1999

Mitchell, A. **"Children in the middle: living with divorce"** Tavistock, 1985

Mitchell, J. **"Contact Orders and the Obstructive Parent – a third way"** in 'Family Law' Vol. 28, pp678-681, 1998

Mitchell, J. **"How Should Contact Centres Be Used?"** in 'Family Law' Vol. 31, pp613-615, 2001

Mitchell, W. **"While Wape men don't beat their wives"** in Counts, et. al. 1992 (op. cit.)

Morgan, D. **"Ideologies of Marriage & Family Life"** in "Marriage, Domestic Life & Social Change" ed. Clark, D., Routledge, 1991

Morgan, D. **"Family Connections"** Polity Press, 1996

Morgan, P. **"Farewell to the Family"** Institute of Economic Affairs, 1995

Morris, R. **"Gypsies, Travellers & the Media"** (paper given at the Annual meeting and conference on Gypsy Studies), Washington, USA, 12/08/2000

Morrow, V. **"Understanding families: children's perspectives"** National Children's Bureau, London, 1998

Mullan, B. **"Sociologists on sociology"** Croom Helm, London, 1987

Mullane, G. (Hon. Justice). **"Better Use of social science research in the family court"** paper given at the 3rd national family court conference, Melbourne, Australia, October, 1998

Mullander, A. & Morley, R. (eds) **"Children living with domestic violence: putting men's abuse of women on the child care agenda"** Whiting & Birch, 1994

Murdoch, A. **"The demonisation of 'New Age' Travellers from a historical perspective"** unpublished MSc dissertation, University of Bristol, 1994

Murray, C. **"The emerging British underclass"** Institute for Economic Affairs, London, 1990

Nardi, P., **"Sex, Friendship and Gender Roles among Gay Men"** in "Men's Friendship" (ed.) Nardi, P., Sage Publications, 1992

Nash, J. **"Infrequent violence among the Nagowsi of Papua New Guinea"** in Counts, et. al. 1992 (op. cit.)

National Youth Agency **"Response to 'Building a Strategy for Children and Young People – a consultation document'"** NYA, 2002

NCADV (National Coalition Against DV) **"Predictors of Domestic Violence"**, 2002
www.ncadv.org/predictors

NCH Action for Children, **"Hidden Victims: Children and Domestic Violence"**, NCH, 1994

Nicholson, A. (Hon. Justice) **"Ethnic Family Values and the Family Law Act"** keynote speech at the University of Sydney (Australia) Law School Conference, August, 1998

NTV (No To Violence:Australia) **"Mirror, Window and Door: violence and abuse in the house"** 2001, www.ntv.au/ntv-three-nine.htm

O'Brien, M. **"Patterns of kinship & friendship among lone fathers"** in Lewis, C. & O'Brien, M (eds) 'Reassessing Fatherhood' Sage, 1987

O'Donnell, M. & Sharpe, S. **"Uncertain Masculinities: youth, ethnicity and class in contemporary Britain"**, Routledge, 2000

Oakley, A. **"Interviewing women: a contradiction in terms"** in 'Doing Feminist Research' Roberts, H. (ed), Routledge, 1981

OFSTED **"The Education of Travelling Children. A survey of educational provision for Travelling children"** Ofsted Publications Centre, London, 1996

OFSTED **"Raising the attainment of minority ethnic pupils. School and LEA responses"** Ofsted Publications Centre, London, 1999

Office of National Statistics, (ONS) **"Social Trends 28"** 1998
<http://www.statistics.gov.uk/statbase.asp>

Okely, J. **"The Traveller-Gypsies"**, CUP, 1983

Olsen, T., Morris, A., & Maxwell, L. **"Maori and Youth Justice in NZ"** in Hazelhurst, K. (ed) 'Popular Justice and Community Regeneration: pathways to indigenous reform' Praeger, 1995

ONS **"General Household Survey"** 1999, <http://www.statistics.gov.uk/statbase.asp>

ONS **"Labour Force Survey"**, 2000 <http://www.statistics.gov.uk/statbase.asp>

ONS, **"Social Trends 31"** 2001 <http://www.statistics.gov.uk/statbase.asp>

ONS, **"Social Trends 32"** 2002 <http://www.statistics.gov.uk/statbase.asp>

Parekh, B. **"Cultural Pluralism and the limits of diversity"** in 'Alternatives: Social Transformation and Humane Governance', Vol. 20, No. 4, pp 431-437, 1995

Parkin, D. **"Templates, Evocations and the long-term Fieldworker"** in 'Anthropologists in a Wider World: essays on field research' Dresch, P., James, W. & Parkin, D. (eds). Berghahn Books, 2000

Pascall, G. **"UK family policy in the 1990s: the case of New Labour and lone parents"** in 'International Journal of Law, Policy & the Family' Vol. 13, No. 3. pp258-273, 1999

Patterson, B., Gregory, D. and Thorne, S. **"A Protocol for Researcher Safety"** in 'Qualitative Health Research' Vol. 9, No.2, pp259-266, 1999

Patton, M. **"Qualitative evaluation and research methods"** Sage, 1990 (2nd ed.), cited in 'Constant Comparison Method: A Kaleidoscope of Data' by Dye, J., Schatz, I., Rosenberg, B. & Coleman, S. in *The Qualitative Report*, Volume 4, Numbers 1/2, January, 2000 (<http://www.nova.edu/ssss/QR/QR4-1/dye.html>)

Payne, J. & Range, M. **"Lone Parents' Lives"** Department of Social Security Research Report No. 78, 1999

Pemberton, D. **"Fostering in a minority community – Travellers in Ireland"** in 'Fostering Kinship' Ashgate, 2001

Phillips, M. **"A man's job is to win the bread, a woman's job is to spread it"** in "The Observer", 22/3/1998

Pickford, R. **"Fathers, marriage and the law"** Family Policy Study Centre, London, 1999

Pollack, S. & Vaughn, J. (eds.) **"Politics of the Heart: an anthology of lesbian parenting"** Firebrand Books, New York, 1987

Pollinger, K. & Pollinger, A. **"Community Action and the Poor: influence v. social control in a New York City community"** Praeger Publishers, 1972

Port, S. **"Critical realist ethnography: the case of racism and professionalism in a medical setting"** in 'Sociology' Vol. 27, No.4, pp591-603, 1993

Quershi, S. **"Obligations and Support within Families"** in Walker A (ed) 'The Generational Contract', UCL, 1996

Radford, L., Hester, L., Woodfield, K. & Humphries, J. **"What about the Children? Child contact and domestic violence – a look at the issues"**, Polity Press, 1995

Rapp, R. **"Towards a nuclear freeze? The gender politics of euro-american kinship analysis"** in Collier, J. & Yanagisako, S. (eds). 'Gender & Kinship: essays towards a unified analysis', Stanford University Press, 1987

Rehfishch, A. & Rehfishch, F. **"Scottish Travellers or Tinkers"** in Rehfishch, A. (ed) 'Gypsies, Tinkers and Other Travellers'. Academic Press, 1975

Ritchie, J. & Spencer, L. **"Qualitative Data Analysis for applied policy research"** in Bryman, A & Burgess, R (eds). 'Analysing Qualitative Data', Routledge, 1994

Roberts, L. & Plange, J. **"The European Convention on Human Rights in reverse"** in 'Family Law' Vol. 28, Feb. 1998

Rochford, F. B. **"On the Politics of Member Validation: taking findings back to Hare Krishna"** in 'Perspectives on Social Problems' Vol. 3: pp99-116, 1992 (cited in Ellis, C. 1995 op. cit).

Rock, P. **"The Making of Symbolic Interactionism"** Macmillan, 1979

Rodgers, B. & Pryor, J. **"Divorce & Separation: the outcomes for children"** Joseph Rowntree Foundation, 1998

Rosenberger, P. **"Focus Groups - an introduction for the Uninitiated"**, 1996
www.liberty.edu/homepage/dhernich/visarres.htm

Roseneil, S. **"Greenham revisited: researching myself and my sisters"** in 'Interpreting the field: accounts of ethnography' Hobbs, D. & May, T. (eds). Oxford University Press, 1993

Rowlinson, K., McKay, S., & Berthoud, R. **"Becoming a single mother"** in 'Changing Families' (ed.) McRae, S., Oxford University Press, 1998

ROW Lesbian Mothers' Group **"Our lovers will never be fathers, but our community can be our family"** in Pollack, S. & Vaughn, J. (ed.) 'Politics of the Heart: an anthology of lesbian parenting' Firebrand Books, New York, 1987

Rubin, L. **"Just friends: the role of friendship in our lives"** Harper & Row, New York, 1985

Ryan, L. **"Researching Minority Ethnic communities: a note on ethics"** (undated)
<http://www.ucc.ie/ucc/units/equality/pubs/Minority/ryan.htm>

Saffron, L. **"Challenging conceptions: planning a family by self-insemination"** Cassell, 1994

Sagarin, E. **"The Research Setting and the Right not to be Researched"** in 'Social Problems', Vol. 21, pp52-64, 1973

Save the Children Fund **"Bringing Up Children in a Traveller Community"**, SCF, 1992

Save the Children Fund **"Denied a Future? The right to education of Roma/Gypsy & Traveller children in Europe"**(Vol 2: Western & Central Europe), Save the Children Fund, UK, 2001

Schachter, S. **"Deviation, Rejection and Community"** in 'Journal of Abnormal and Social Psychology' , 1951, cited by Williams, K. 2001

Scott, D. Walker, L. & Gilmore, K. **"Breaking the Silence: supporting adult survivors of sexual violence"** Centre Against Sexual Assault, Melbourne Australia, 1995

Scottish Executive, **"Moving On: A Survey of Travellers' Views"**1999
<http://www.scotland.gov.uk/cru/kd01/blue/moving-04.htm>

Sevenhuijsen, S. **"Citizenship & the ethic of care: feminist considerations about justice, morality and politics"**, Routledge, 1999 *cited in Smart & Neale, 1999 op. cit.*

Shah, P. **"Cross-cultural conflicts of marriage and divorce involving South Asians in Britain"** in 'Cross Cultural Family Relations' (eds. Strijbosch, F & Foblets, M-C) Onati papers, No. 8, Onati, Spain. (1999)

Sharrock, W. & Anderson, R. **"On the Demise of the Native: some observations on an a proposal for ethnography"**, Occasional Paper No. 5, Dept. of Sociology, Manchester University, 1980

Sibley, D. **"Endangering the Sacred: nomads, youth cultures and the English countryside"** in "Contested Countryside Cultures" ed. Cloke, P. & Little, J., Routledge, 1997

Sieber, J. & Stanley, B. **"Ethical and professional dimensions of socially sensitive research"** in 'American Psychologist' Vol 43, pp 49-55, 1988

Silva, E. & Smart, C. **"The 'New' Practices & Politics of Family Life"** in Silva & Smart (eds) "The New Family?", Sage Publications, 1999

Simpson, B., McCarthy, P. & Walker, J. **"Being There: Fathers After Divorce. An Exploration of Post-Divorce Fathering"** Relate Centre for Family Studies, Newcastle-on-Tyne, 1995

Skeggs, B. **"Formations of Class & Gender: becoming respectable"** Sage Publications, 1997

Skodova, L. **"Gender and Identity of two generations of Czech émigrés in Denmark"** Paper for 4th Nordic Conference on 'The Anthropology of Post-Socialism' Copenhagen, April 2002

- Smart, C. **"The 'New' parenthood: fathers and mothers after divorce"** in Silva & Smart (eds.) **"The 'New' Family?"**, Sage Publications, 1999
- Smart, C. & Neale, B. **"Arguments against Virtue - Must Contact be Enforced?"** in 'Family Law', May, pp 332-336, 1997
- Smart, C. & Neale, B. **"Family Fragments?"**, Polity Press, 1999
- Smart, C & Stevens, P. **"Cohabitation Breakdown"** Family Policy Studies Centre, 2000
- Snow, D. **"The Disengagement Process: a neglected problem in participant observation research"** in 'Qualitative Sociology' Vol. 3, pp100-122, 1980
- Speak, S., Cameron, S., & Gilroy, R. **"Young Single Fathers: Participation in fatherhood – bridges & barriers"**, Family Policy Studies Centre, London, 1997
- Spradley, J. **"Participant Observation"**, Holt Rinehart & Winston, 1997
- Stanko, E. **"Everyday violence: how women and men experience physical danger"**, Pandora Press, 1990
- Stanley, L. & Wise, S. **"Breaking out again: feminist ontology & epistemology"** Routledge & Kegan Paul, 1993
- Steel, M. **"Lesbian Custody Disputes and Court Welfare Reports"** Social Work Monographs, University of East Anglia, 1990
- Stein, C., Wemmerus, V., Ward, M., Gaines, M., Freeberg, A. & Jewell, T. **"Because they're my parents: an intergenerational study of felt obligation & parental caregiving"** in 'Journal of Marriage and the Family' Vol. 60, pp611-622, August 1998
- Stewart, R. & Kilfeather, J. **"Working with Travellers in Northern Ireland"** in 'Rural Racism in the UK' Henderson, P. & Kaur, R. (eds.) Community Development Publications, 1999
- Stewart, T. **"Family Group Conferences with Young Offenders in New Zealand"** in 'Family Group Conferencing: perspectives on policy and practice', Hudson, J. (ed), Federations Press, 1996
- Sumner, W. **"Folkway"** Ginn & Co., 1906, (cited Wardak, A.)
- Sutherland, A. **"Gypsies: The Hidden Americans"** Tavistock, London, 1987
- Tapsfield, R. **"Kinship Care: a Family Rights Group perspective"** in 'Kinship Care: the placement choice for children and young people' Broad, B. (ed), Russell House Publishing, 2001

Tauri, J. **"Family Group Conferencing: the myth of indigenous empowerment"** in 'New Zealand Justice as Healing' (Newsletter of the Native Law Centre), University of Saskatchewan, 1999 http://www.usask.ca/nativelaw/jah_tauri.html

Tauri, J. & Morris, A. **"Reforming Justice: the potential for Maori processes"** The Australian and New Zealand Journal of Criminology, Vol 30, No. 2., pp149-167, 1997

The Telegraph **"Correspondence about Travellers in Shoreham"** Letters Page 23/08/1999

Thery, I. **"The 'interests of the child' and the regulation of the post-divorce family"** in 'Child Custody and the Politics of Gender' eds. Smart, C. & Sevenhuijsen, S., Routledge, 1989

Thomas, C **"New Labour's family values"** in "Socialism Today" Issue 34, Jan. 1999 www.socialismtoday.org/34/index.html

Thomas, P. & Campbell S. **"Housing Gypsies"** Cardiff Law School, 1992

Thorne, B. **"Are you still taking notes?" Fieldwork and the Problem of Informed Consent**" in 'Social Problems' Vol. 27 pp284-297, February, 1980

Torrea, S. **"Gender & Sexuality: difference, rights and toleration"** in 'Discrimination and Toleration: New Perspectives', Hastrup, K. & Ulrich, G. (eds), Martimus Nijhoff Publishers, 2002

Tulugak, A. **"Mental Health Problems in the Inuit population"** Paper in the 'Mental Health in Native Communities' stream, 26th International Conference on Law and Mental Health, Quebec, July 2001

Turner, R. **"Fellow Travellers"** The Guardian, 24/8/1999

Unattributed, **"Traditional Dispute resolution"** in 'Off the Beaten Path' (Micronesian web journal) www.micsen.org/pubs/counsellor/pdf/mc.39.pdf

Van Cleemput, P. **"The Health Care Needs of Travellers"** in 'Archives of Disease in Childhood' Vol. 82, No.1, pp32-37, 2000

Van Dijk, A. **"Ideology: a multidisciplinary approach"**, Sage Publications, 1998

Van Maanen, J. **"Varieties of Qualitative Research"**, Sage, 1982

Van Maanen, M. **"Researching Lived Experience"** University of New York Press, 1990

Victoria University of Wellington, **"Families and Identity"** Sociology & Social Policy Web Pages, University of Wellington, New Zealand, 2002 <http://www.vuw.ac.nz/socpol/new/papers/112lect16.shtml>

Vuorinen, P., **"Doing research among family and friends: problems and advantages"** 2001, <http://lepo.it.da.ut.ee~lehti/Oralhistory/3.6.Pihla.htm>

Walker, J., Simpson B. & McCarthy, P. **"Renegotiating Fatherhood"** Family Studies Report, University of Newcastle, 1997

Wallbank, J. **"Castigating Mothers: the judicial response to 'wilful' women in disputes over paternal contact in English law"** in 'Journal of Social Welfare & Family Law' 20(4) 1998(a).

Wallbank, J. **"Challenging motherhood(s)"** Prentice Hall, 1998(b)

Wallis, R. **"The Moral Career of a Research Project"** in 'Doing Sociological Research' Bell, C. & Newbury, H. (eds.), Allen & Unwin, 1977

Wardak, A. **"Social Control and Deviance in a South Asian Community in Scotland"** Ashgate, 2000

Warin, J., Solomon, Y., Lewis, C. & Langford, W. **"Fathers, work and family life"** Family Policy Studies Centre, London, 1999

Wacquant, L. **"How penal sense came to the Europeans"** University of Berkeley, California, Fall Seminar paper, 1998

Webster, L. **"A Report for the Children's Society on the impact of the Criminal Justice and Public Order Act on the lives of Travellers and their children"** Children Society, 1995

Webster, L. **"A Positive Form of Homelessness"** unpublished PhD thesis, University of Bath, 1999

Webster, L. & Millar, J. **"Making a living: social security, social exclusion and New Travellers"** Joseph Rowntree Foundation, 2001

Weeks, J. Donovan, C. & Heaphy, B. **"Families of Choice: Patterns of non-heterosexual relationships"** Social Science Research Papers, South Bank University, London, 1997

Weeks, J. Donovan, C. & Heaphy, B. **"Everyday experiments: narratives of non-heterosexual relationships"** in Silva & Smart (eds) 'The 'New' Family?' Sage Publications, 1999

Weeks, J., Heaphy, B. & Donovan, C. **"Partners by Choice: Equality, Power & Commitment in Non-heterosexual Relationships"** in "The Sociology of the Family: a reader" ed. Allan, G., Blackwell, 1999

Weisheit, R. **"Marijuana Subcultures"** in Ferrell, J. and Hamm, M. (eds) 'Ethnology on the edge: crime, deviancy and field research', North East University Press, 1998

Weyland, I. **"The Blood Tie: Raised to the Status of a Presumption"** Journal of Social Welfare & Family Law, Vol. 19, No. 2, 1997.

Williams, K. **"Ostracism"** Guildford Press, 2001

Wolf, D. **"Lesbian childbirth & women-controlled conception"** in 'Women-Identified-Women', Darty, T & Potter, S. (eds), Mayfield Publishing, 1984

Woodhead, D. **"Community safety and the NHS in London: Stakeholders Views"** Kings Fund, 1998

Wright, J **"Lesbian step-families"**, Harrington Park Press, 1998

Yearnshire, J. **"Analysis of Cohort"** in 'Violence against Women' ed. Bewley, S., Friend, J. & Mezey, G., Royal College of Obstetricians and Gynaecologists, London, 1997

Zelditch, M. **"Some Methodological Problems of Field Studies"** in 'American Journal of Sociology', Vol. 67, No. 5, pp566-576, 1962.

CASE/STATUTE LISTINGS

A v A [1997] Fam.Law, No. 62
A v N (Committal:refusal of contact) [1997] 1 FLR 533
The Caravan Sites Act, 1968, Part III
The Children Act, 1989
Capstick & Others [1994] unreported
The Commission for Racial Equality v Dutton [1989] 1 All ER 306 (CA)
Cuss v Secretary of State & Wychavon DC [1991] unreported
Dunn v Maidstone DC & Sec. State for Environment [1996] unreported
The Education Act, 1944
The European Convention Of Human Rights (incorporated into British law under the Human Rights Act, 1998)
F v F (1996) (CA) 13/5/98 (unreported)
The Family Law Act, 1996
Gillick v West Norfolk & Wisbech Area Health Authority [1986] 1 AC 112,
Horsham DC v Sec. State for the Environment & Giles (1989) unreported, 31st October
The Human Rights Act 1998
The Law on Child Care and Family Services White Paper (January 1987)
The Legitimacy Act, 1976
M v M (transfer of custody: Appeal) [1987] 2FLR 146
May v May [1986] 1 FLR 325
Lord Chancellors' Department: "1999 statistics on s8 Children Act applications"
www.lcd.gov.uk/judicial/jsaroo/htm
The Matrimonial Causes Act, 1973
National Standards for Probation Service Family Court Welfare Work, Home Office, 1994
Nottinghamshire County Council v P (1993) CA)
P. O'Leary & Others v Allied Domecq and Others [2000] Central London County Court, 29/8/00. Case No. CL 950275-79
The Race Relations Act 1976
The Race Relations (Amendment) Act 2000
Re: B [CA] (1995).
Re: F (Minors: Mother's Anxiety) [1993] 2 FLR
Re: F (1994)
Re: M (Contact: Supervision) [1988] 1 FLR,
Re: M (CA) (1995)
Re: M (Contact Supervision) [1998] 1 FLR),
Re: P (A Minor, Custody)(1983) FLR 401;
Re:P [1994] (HC)
Re: P (Contact:Supervision) [1996] 2 FLR 314
Re:S [CA] 1995
Re:T (CA) 1992.
Re: X (A minor:contact:committal) [1993] Fam Law 246
R v Shropshire CC ex parte Bungay (1990) 23 HLR, 195
R v South Hamms District Council ex parte Gibb [1994] 4 All ER 1012
Report of the Enquiry into Child Abuse in Cleveland 1987 (1988 Cm 41 - 'the Butler-Sloss Report')
Report on Guardianship and Custody (No.172, 1988) Law Commission

Review of Child Law (1984) Law Commission

Review of Child Care Law (DHSS 1985)

Smart, C. & Neale, B. Commentary on *Re: R (a minor contact)* [1993] 2 FLR 762 in **Family Fragments?**, Polity Press, 1999 pp180-181

Wrexham County Borough v National Assembly for Wales ('The Berry Appeal')

[unreported] 31/10/2002 High Court of Justice Case No. CO/3218/02